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par S. R. Rana
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FREE PRESS ANTHOLOGY

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The concealment of truth is the only indecorum known to science.—WESTERMARCK.

INTRODUCTION

A FEW YEARS ago I went to a public library containing 250,000 volumes, and found in its catalogue only two items indexed under freedom of speech and press. In several smaller libraries nothing upon this subject was found. Such conditions evidence a supine and lethargic security which is ever the best possible encouragement for the destroyers of liberty. I was therefore partially prepared for another extraordinary discovery.

A comparative study of the laws persuaded me that, notwithstanding our paper constitutions to the contrary, liberty of speech and of the press, in some parts of the United States, is now abridged to a greater extent than it is in England, or was, even a century ago. While the cruelty of the penalties has been much relaxed, the number of penalized ideas has been increased. Now, as then, these repressive laws are not generally enforced, but are always readily and successfully invoked against persons who have otherwise made themselves unpopular. Furthermore, the uncertainty of the criteria of guilt, in these censorial laws, has been materially increased, in spite of our constitutional guarantees against constructive crimes. The arbitrariness of the lawless suppression of free speech by ignorant, hysterical, and tyrannical police officers, and through the extension of executive process and government by injunctions, and the unjust discrimination manifested in the exercise of a lawless discretion on the part of municipal executives and our quasi-official moralists for revenue, should be apparent and abhorrent to all who view current events with an earnest and intelligent desire to promote truth, justice, and liberty.

The most discouraging feature of this state of facts arises from the total absence of anything like a formidable protest. Where in England a century ago riots resulted from attempts to enforce laws abridging free speech, and the right of free assembly, the present American public views such conduct with utter indifference. Although the repression is often unwarranted even by an unconstitutional statute, yet, in most instances, the mass of the public applauds this official lawlessness. About a century ago the American love of liberty was such that the passage of the Alien and Sedition law resulted in the defeat of the Whig

party. To-day similar and more pernicious statutes receive all but general approval, so has our love of constitutional liberty degenerated.

This deplorable condition of the public indifference to the facts, and the unconsciousness of their wrong, or of the future import of these precedents abridging free utterance, together with the quite general judicial indorsement of this abridged freedom, make such a book as this an unappreciated necessity, and useful in spite of its many defects, simply because it is the only thing of its kind in existance.

A few words of explanation are necessary as to the contents of the book itself. The great diversity of spelling, capitalization, and punctuation to be found is due to my endeavor to reproduce as closely as possible the method of expression as well as the thought of the writers, of different times and countries. In the matter quoted, very little will be found which antedates Milton. The reason is that I discovered nothing belonging to that earlier period which extendedly defends *unabridged* freedom of speech. The chief arguments of that time may be thus summarized:

I. We heretics are biblically correct, therefore should be tolerated;

II. The Bible commands toleration, therefore we should be tolerated.

Those who are interested in these "first articulations of infant liberty" are referred to a collected reprint of them by The Hansard Knollys Society, in a large volume entitled, "Tracts on Liberty of Conscience and Persecution. 1614-1661," published in London, 1846.

The present volume is also defective in that it contains no adequate discussions of the free speech issues as related to its present-day abridgments. At the end of this volume will be found a bibliography of recent magazine literature in relation to some of these later-day problems. These articles are seldom quoted from herein, for the reason that the present writer is the author of most of them, and it is intended soon to publish these in a separate volume.

THEODORE SCHROEDER.

New York City.

FREE PRESS ANTHOLOGY

SECTION I.

MILTON'S AREOPAGITICA

[1644]

Editorial Note.—Owing to the historical importance of this immortal essay practically all of it is here reproduced.

He who freely magnifies what hath been nobly done, and fears not to declare as freely what might be done better, gives ye the best covenant of his fidelity; and that his loyalest affection and his hope waits on your proceedings.

. . . That clause of Licensing Books, which we thought had died with his brother quadragesimal and matrimonial* when the prelates expired, I shall now attend with such a homily, as shall lay before ye, first the inventors of it, to be those whom ye will be loth to own; next what is to be thought in general of reading, whatever sort the books be; and that this Order avails nothing to the suppressing of scandalous, seditious, and libellous books, which were mainly intended to be suppressed. Last, that it will be primely to the discouragement of all learning, and the stop of Truth, not only by disexercising and blunting our abilities in what we know already, but by hindering and cropping the discovery that might be yet further made both in religious and civil Wisdom.

. . . Unless wariness be used, as good almost kill a man as kill a good book: who kills a man kills a reasonable creature, God's image; but he who destroys a good book, kills reason itself, kills the image of God, as it were in the eye. Many a man lives a burden to the earth; but a good book is the precious life-blood of a master spirit, embalmed and treasured up on purpose to a life beyond life. 'Tis true, no age can restore a life, whereof perhaps there is no great loss; and revolutions of ages do not oft recover the loss of a rejected truth, for the want

*_Quadragesimal and matrimonial._ Ecclesiastical Orders as to the keeping of Lent and Marriage Ceremonial. Milton held that there was no ground in Scripture for the claim of an ecclesiastical control over the civil contract of marriage.

of which whole nations fare the worse. We should be wary therefore what persecution we raise against the living labours of public men, how we spill that seasoned life of man, preserved and stored up in books; since we see a kind of homicide may be thus committed, sometimes a martyrdom, and if it extend to the whole impression, a kind of massacre, whereof the execution ends not in the slaying of an elemental life, but strikes at that ethereal and fifth essence, the breath of reason itself; slays an immortality rather than a life. But lest I should be condemned of introducing licence, while I oppose licensing, I refuse not the pains to be so much historical, as will serve to show what hath been done by ancient and famous commonwealths, against this disorder, till the very time that this project of licensing crept out of the Inquisition, was catched up by our prelates, and hath caught some of our presbyters. . . .

Sometimes five Imprimaturs are seen together dialogue wise in the piazza of one title-page, complimenting and ducking each to other with their shaven reverences, whether the author who stands by in perplexity at the foot of his epistle, shall to the press or to the sponge. These are the pretty responsories, these are the dear antiphonies, that so bewitched of late our Prelates and their chaplains with the goodly echo they made; and besotted us to the gay imitation of a lordly Imprimatur, one from Lambeth House, another from the west end of Paul's; so apishly romanising, that the word of command still was set down in Latin; as if the learned grammatical pen that wrote it would cast no ink without Latin; or perhaps, as they thought, because no vulgar tongue was worthy to express the pure conceit of an Imprimatur; but rather, as I hope, for that our English, the language of men, ever famous and foremost in the achievements of liberty, will not easily find servile letters enow to spell such a dictatory presumption English. And thus ye have the inventors and the original of book-licensing ripped up and drawn as lineally as any pedigree. We have it not, that can be heard of, from any ancient state, or polity, or church, nor by any statute left us by our ancestors elder or later; nor from the modern custom of any reformed city or church abroad; but from the most anti-christian council and the most tyrannous inquisition that ever inquired. Till then books were ever as freely admitted into the world as any other birth; the issue of the brain was no more stifled than the issue of the womb; no envious Juno sat cross-legged over the nativity of any man's intellectual offspring; but if it proved a monster, who denies, but that it was justly burnt, or sunk into the sea? But that a book in worse condition than a peccant soul, should be to stand before a jury ere it be born to the world, and undergo yet in darkness the judgment of Radamanth and his colleagues, ere it can pass the ferry backward into light, was never heard before, till that mysterious iniquity, provoked and troubled at the first entrance of Reformation, sought out new limbos and new hells wherein they

might include our books also within the number of their damned. And this was the rare morsel so officiously snatched up, and so ill-favouredly imitated by our inquisiturient bishops, and the attendant minorities their chaplains. That ye like not now these most certain authors of this licensing order, and that all sinister intention was far distant from your thoughts, when ye were importuned the passing it, all men who know the integrity of your actions, and how ye honour Truth, will clear ye readily.

But some will say, What though the inventors were bad, the thing for all that may be good? It may be so; yet if that thing be no such deep invention, but obvious, and easy for any man to light on, and yet best and wisest commonwealths through all ages and occasions have forborne to use it, and falsest seducers and oppressors of men were the first who took it up, and to no other purpose but to obstruct and hinder the first approach of Reformation; I am of those who believe it will be a harder alchymy than Lullius ever knew, to sublimate any good use out of such an invention. Yet this only is what I request to gain from this reason, that it may be held a dangerous and suspicious fruit, as certainly it deserves, for the tree that bore it, until I can dissect one by one the properties it has. But I have first to finish, as was propounded, What is to be thought in general of reading books, whatever sort they be, and whether be more the benefit or the harm that thence proceeds?

Not to insist upon the examples of Moses, Daniel, and Paul, who were skilful in all the learning of the Egyptians, Chaldeans, and Greeks, which could not probably be without reading their books of all sorts, in Paul especially, who thought it no defilement to insert into Holy Scripture the sentences of three Greek poets, and one of them a tragedian, the question was notwithstanding sometimes controverted among the primitive doctors, but with great odds on that side which affirmed it both lawful and profitable, as was then evidently perceived, when Julian the Apostate and subtlest enemy to our faith, made a decree forbidding Christians the study of heathen learning: for, said he, they wound us with our own weapons, and with our own arts and sciences they overcome us. And indeed the Christians were put so to their shifts by this crafty means, and so much in danger to decline into all ignorance, that the two Apollinarii were fain, as a man may say, to coin all the seven liberal sciences out of the Bible, reducing it into divers forms of orations, poems, dialogues, even to the calculating of a new Christian grammar.

. . .

Dionysius Alexandrinus was about the year 240, a person of great name in the Church for piety and learning, who had wont to avail himself much against heretics by being conversant in their books; until a certain presbyter laid it scrupulously to his conscience, how he durst venture himself among those defiling volumes. The worthy man, loth

to give offence, fell into a new debate with himself what was to be thought; when suddenly a vision sent from God (it is his own epistle that so avers it) confirmed him in these words: Read any books whatever come to thy hands, for thou art sufficient both to judge aright, and to examine each matter. To this revelation he assented the sooner, as he confesses, because it was answerable to that of the Apostle to the Thessalonians, Prove all things, hold fast that which is good. And he might have added another remarkable saying of the same author: To the pure, all things are pure; not only meats and drinks, but all kind of knowledge whether of good or evil; the knowledge cannot defile, nor consequently the books, if the will and conscience be not defiled. For books are as meats and viands are; some of good, some of evil substance; and yet God in that unapocryphal vision, said without exception, Rise, Peter, kill and eat, leaving the choice to each man's discretion. Wholesome meats to a vitiated stomach differ little or nothing from unwholesome; and best books to a naughty mind are not unapʻliable to occasions of evil. Bad meats will scarce breed good nourishment in the healthiest concoction; but herein the difference is of bad books, that they to a discreet and judicious reader serve in many respects to discover, to confute, to forewarn, and to illustrate. Whereof what better witness can ye expect I should produce, than one of your own now sitting in Parliament, the chief of learned men reputed in this land, Mr. Selden; whose volume of natural and national laws proves, not only by great authorities brought together, but by exquisite reasons and theorems almost mathematically demonstrative, that all opinions, yea errors, known, read, and collated, are of main service and assistance toward the speedy attainment of what is truest. I conceive, therefore, that when God did enlarge the universal diet of man's body, saving ever the rules of temperance, He then also, as before, left arbitrary the dieting and repasting of our minds; as wherein every mature man might have to exercise his own leading capacity. How great a virtue is temperance, how much of moment through the whole life of man! Yet God commits the managing so great a trust, without particular law or prescription, wholly to the demeanour of every grown man. And therefore when He Himself tabled the Jews from heaven, that omer, which was every man's daily portion of manna, is computed to have been more than might have well sufficed the heartiest feeder thrice as many meals. For those actions which enter into a man, rather than issue out of him, and therefore defile not, God uses not to captivate under a perpetual childhood of prescription, but trusts him with the gift of reason to be his own chooser; there were but little work left for preaching, if law and compulsion should grow so fast upon those things which heretofore were governed only by exhortation. Solomon informs us, that much reading is a weariness to the flesh; but neither he nor other inspired author tells us that such, or such read-

ing is unlawful; yet certainly had God thought good to limit us herein, it had been much more expedient to have told us what was unlawful, than what was wearisome. . . . As therefore the state of man now is; what wisdom can there be to choose, what continuance to forbear, without the knowledge of evil? He that can apprehend and consider vice with all her baits and seeming pleasures, and yet abstain, and yet distinguish, and yet prefer that which is truly better, he is the true wayfaring Christian. I cannot praise a fugitive and cloistered virtue, unexercised and unbreathed, that never sallies out and sees her adversary, but slinks out of the race, where that immortal garland is to be run for, not without dust and heat. Assuredly we bring not innocence into the world, we bring impurity much rather; that which purifies us is trial, and trial is by what is contrary. That virtue therefore which is but a youngling in the contemplation of evil, and knows not the utmost that vice promises to her followers, and rejects it, is but a blank virtue, not a pure; her whiteness is but an excremental whiteness; which was the reason why our sage and serious poet Spenser, whom I dare be known to think a better teacher than Scotus or Aquinas, describing true temperance under the person of Guion, brings him in with his palmer through the cave of Mammon, and the bower of earthly bliss, that he might see and know, and yet abstain. Since therefore the knowledge and survey of vice is in this world so necessary to the constituting of human virtue, and the scanning of error to the confirmation of truth, how can we more safely, and with less danger scout into the regions of sin and falsity than by reading all manner of tractates and hearing all manner of reason? And this is the benefit which may be had of books promiscuously read.

But of the harm that may result hence three kinds are usually reckoned. First, is feared the infection that may spread; but then all human learning and controversy in religious points must remove out of the world, yea the Bible itself; for that ofttimes relates blasphemy not nicely, it describes the carnal sense of wicked men not unelegantly, it brings in holiest men passionately murmuring against Providence through all the arguments of Epicurus; in other great disputes it answers dubiously and darkly to the common reader; and ask a Talmudist what ails the modesty of his marginal Keri, that Moses and all the prophets cannot persuade him to pronounce the textual Chetiv.* For these causes we all know the Bible itself put by the Papist into the

**Marginal Keri . . . textual Chetiv.* Keri meant that which is read; Chetiv that which is written. Where various readings occur, the reading to be avoided was written in the text, and the true reading, or keri, in the margin. The corrections, about one thousand in number, have been ascribed to Ezra. Among them were corrections, which Milton had in his mind, made according to a rule of the Talmud, "That all words which in the Law are written obscenely, must be changed to more civil words." For which in another place Milton calls the scholiasts, "Fools who would teach men to read more decently than God thought good to write."

first rank of prohibited books. The ancientest fathers must be next removed, as Clement of Alexandria, and that Eusebian book of Evangelic preparation, transmitting our ears through a hoard of heathenish obscenities to receive the Gospel. Who finds not that Irenæus, Epiphainus, Jerome, and others discover more heresies than they well confute, and that oft for heresy which is the truer opinion? Nor boots it to say for these, and all the heathen writers of greatest infection, if it must be thought so, with whom is bound up the life of human learning, that they writ in an unknown tongue, so long as we are sure those languages are known as well to the worst of men, who are both most able, and most diligent to instil the poison they suck, first into the courts of princes, acquainting them with the choicest delights, and criticisms of sin. As perhaps did that Petronius whom Nero called his Arbiter, the master of his revels; and the notorious ribald of Arezzo, dreaded and yet dear to the Italian courtiers. I name not him for posterity's sake, whom Henry VIII. named in merriment his Vicar of hell. By which compendious way all the contagion that foreign books can infuse, will find a passage to the people far easier and shorter than an Indian voyage, though it could be sailed either by the north of Catai eastward, or of Canada westward, while our Spanish licensing gags the English press never so severely. . . . Seeing, therefore, that those books, and those in great abundance which are likeliest to taint both life and doctrine, cannot be suppressed without the fall of learning, and of all ability in disputation, and that these books of either sort are most and soonest catching to the learned, from whom to the common people whatever is heretical or dissolute may quickly be conveyed, and that evil manners are as perfectly learnt without books a thousand other ways which cannot be stopped, and evil doctrine not with books can propagate, except a teacher guide, which he might also do without writing, and so beyond prohibiting, I am not unable to unfold, how this cautelous enterprise of licensing can be exempted from the number of vain and impossible attempts. And he who were pleasantly disposed, could not well avoid to liken it to the exploit of that gallant man who thought to pound up the crows by shutting his park gate. Besides another inconvenience, if learned men be the first receivers out of books and dispreaders both of vice and error, how shall the licensers themselves be confided in, unless we can confer upon them, or they assume to themselves above all others in the land, the grace of infallibility and uncorruptedness? And again if it be true, that a wise man, like a good refiner, can gather gold out of the drossiest volume, and that a fool will be a fool with the best book, yea or without book; there is no reason that we should deprive a wise man of any advantage to his wisdom, while we seek to restrain from a fool, that which being restrained will be no hindrance to his folly. For if there should be so much exactness always used to keep that from him which is unfit

for his reading, we should in the judgment of Aristotle not only, but of Solomon and of our Saviour, not vouchsafe him good precepts, and by consequence not willingly admit him to good books; as being certain that a wise man will make better use of an idle pamphlet, than a fool will do of sacred Scripture.

'T is next alleged we must not expose ourselves to temptations without necessity, and next to that, not employ our time in vain things. To both these objections one answer will serve, out of the grounds already laid, that to all men such books are not temptations, nor vanities, but useful drugs and materials wherewith to temper and compose effective and strong medicines, which man's life cannot want. The rest, as children and childish men, who have not the art to qualify and prepare these working minerals, well may be exhorted to forbear, but hindered forcibly they cannot be by all the licensing that Sainted Inquisition could ever yet contrive. . . . See the ingenuity of Truth, who, when she gets a free and willing hand, opens herself faster than the pace of method and discourse can overtake her. . . . Plato, a man of high authority, indeed, but least of all for his commonwealth, in the book of his laws, which no city ever yet received, fed his fancy by making many edicts to his airy burgomasters, which they who otherwise admire him, wish had been rather buried and excused in the genial cups of an Academic night sitting. By which laws he seems to tolerate no kind of learning, but by unalterable decree, consisting most of practical traditions, to the attainment whereof a library of smaller bulk than his own dialogues would be abundant. And there also enacts, that no poet should so much as read to any private man what he had written, until the judges and law-keepers had seen it, and allowed it. But that Plato meant this law peculiarly to that commonwealth which he had imagined, and to no other, is evident. Why was he not else a lawgiver to himself, but a transgressor, and to be expelled by his own magistrates: both for the wanton epigrams and dialogues which he made, and his perpetual reading of Sophron, Mimus, and Aristophanes, books of grossest infamy, and also for commending the latter of them, though he were the malicious libeller of his chief friends, to be read by the tyrant Dionysius, who had little need of such trash to spend his time on? But that he knew this licensing of poems had reference and dependence to many other provisos there set down in his fancied republic, which in this world could have no place; and so neither he himself, nor any magistrate, or city ever imitated that course, which taken apart from those other collateral injunctions must needs be vain and fruitless. . . .

If we think to regulate printing, thereby to rectify manners, we must regulate all recreations and pastimes, all that is delightful to man. No music must be heard, no song be set or sung, but what is grave and Doric. There must be licensing dancers, that no gesture, motion, or deportment

be taught our youth but what by their allowance shall be thought honest; for such Plato was provided of; it will ask more than the work of twenty licensers to examine all the lutes, the violins, and the guitars in every house; they must not be suffered to prattle as they do, but must be licensed what they may say. And who shall silence all the airs and madrigals that whisper softness in chambers? The windows also, and the balconies must be thought on, there are shrewd books, with dangerous frontispieces, set to sale; who shall prohibit them, shall twenty licensers? The villages also must have their visitors to inquire what lectures the bagpipe and the rebeck reads even to the ballatry, and the gamut of every municipal fiddler, for these are the countryman's Arcadias, and his Monte Mayors. Next, what more national corruption, for which England hears ill abroad, than household gluttony—who shall be the rectors of our daily rioting? And what shall be done to inhibit the multitudes that frequent those houses where drunkenness is sold and harboured? Our garments also should be referred to the licensing of some more sober workmasters to see them cut into a less wanton garb. Who shall regulate all the mixed conversation of our youth, male and female together, as is the fashion of this country, who shall still appoint what shall be discoursed, what presumed, and no further? Lastly, who shall forbid and separate all idle resort, all evil company? These things will be, and must be; but how they shall be least hurtful, how least enticing, herein consists the grave and governing wisdom of a state. To sequester out of the world into Atlantic and Utopian polities, which never can be drawn into use, will not mend our condition; but to ordain wisely as in this world of evil, in the midst whereof God hath placed us unavoidably. . . . Impunity and remissness, for certain, are the bane of a commonwealth, but here the great art lies, to discern in what the law is to bid restraint and punishment, and in what things persuasion only is to work. If every action which is good or evil in man at ripe years, were to be under pittance, and prescription, and compulsion, what were virtue but a name, what praise could be then due to well-doing, what gramercy to be sober, just, or continent? Many there be that complain of Divine Providence for suffering Adam to transgress: foolish tongues! when God gave him reason, he gave him freedom to choose, for reason is but choosing; he had been else a mere artificial Adam, such an Adam as he is in the motions. We ourselves esteem not of that obedience, or love, or gift, which is of force; God therefore left him free, set before him a provoking object, ever almost in his eyes herein consisted his merit, herein the right of his reward, the praise of his abstinence. Wherefore did he create passions within us, pleasures round about us, but that these rightly tempered are the very ingredients of virtue? They are not skilful considerers of human things, who imagine

to remove sin by removing the matter of sin; for, besides that it is a huge heap increasing under the very act of diminishing, though some part of it may for a time be withdrawn from some persons, it cannot from all, in such a universal thing as books are; and when this is done, yet the sin remains entire. Though ye take from a covetous man all his treasure, he has yet one jewel left, ye cannot bereave him of his covetousness. Banish all objects of lust, shut up all youth into the severest discipline that can be exercised in any hermitage, ye cannot make them chaste, that came not thither so, such great care and wisdom is required to the right managing of this point. Suppose we could expel sin by this means; look how much we thus expel of sin, so much we expel of virtue; for the matter of them both is the same; remove that, and ye remove them both alike. This justifies the high providence of God, who, though He commands us temperance, justice, continence, yet pours out before us, even to a profuseness, all desirable things, and gives us minds that can wander beyond all limit and satiety. Why should we then affect a rigour contrary to the manner of God and of nature, by abridging or scanting those means, which books freely permitted are, both to the trial of virtue, and the exercise of truth? It would be better done, to learn that the law must needs be frivolous, which goes to restrain things, uncertainly and yet equally working to good, and to evil. And were I the chooser, a dram of well doing should be preferred before many times as much the forcible hindrance of evil doing. For God sure esteems the growth and completing of one virtuous person, more than the restraint of ten vicious. And albeit whatever thing we hear or see, sitting, walking, travelling, or conversing, may be fitly called our book, and is of the same effect that writings are, yet grant the thing to be prohibited were only books, it appears that this order hitherto is far insufficient to the end which it intends. Do we not see, not once or oftener, but weekly that continued court-libel against the Parliament and City, printed, as the wet sheets can witness, and dispersed among us, for all that licensing can do? yet this is the prime service a man would think, wherein this Order should give proof of itself. . . . If the amendment of manners be aimed at, look into Italy and Spain, whether those places be one scruple the better, the honester, the wiser, the chaster, since all the inquisitional rigour that hath been executed upon books.

Another reason, whereby to make it plain that this Order will miss the end it seeks, consider by the quality which ought to be in every licenser. It cannot be denied but that he who is made judge to sit upon the birth, or death, of books, whether they may be wafted into this world, or not; had need to be a man above the common measure, both studious, learned, and judicious; there may be else no mean mistakes in the censure of what is passable or not; which is also no mean injury. If he be of such worth as behoves him, there cannot be a more tedious and un-

pleasing journey-work, a greater loss of time levied upon his head, than to be made the perpetual reader of unchosen books and pamphlets, ofttimes huge volumes. . . . Seeing therefore those who now possess the employment, by all evident signs wish themselves well rid of it, and that no man of worth, none that is not a plain unthrift of his own hours, is ever likely to succeed them, except he mean to put himself to the salary of a press corrector, we may easily forsee what kind of licensers we are to expect hereafter; either ignorant, imperious, and remiss, or basely pecuniary. This is what I had to show, wherein this Order cannot conduce to that end, whereof it bears the intention. . . . If therefore ye be loth to dishearten heartily and discontent, not the mercenary crew of false pretenders to learning, but the free and ingenuous sort of such as evidently were born to study, and love learning for itself, not for lucre, or any other end, but the service of God and of truth, and perhaps that lasting fame and perpetuity of praise which God and good men have consented shall be the reward of those whose published labours advance the good of mankind, then know, that so far to distrust the judgment and the honesty of one who hath but a common repute in learning, and never yet offended, as not to count him fit to print his mind, without a tutor and examiner, lest he should drop a schism, or something of corruption, is the greatest displeasure and indignity to a free and knowing spirit that can be put upon him. What advantage is it to be a man over it is to be a boy at school, if we have only escaped the ferula to come under the fescue of an Imprimatur? if serious and elaborate writings, as if they were no more than the theme of a grammar-lad under his pedagogue, must not be uttered without the cursory eyes of a temporising and extemporising licenser? He who is not trusted with his own actions, his drift not being known to be evil, and standing to the hazard of law and penalty, has no great argument to think himself reputed in the Commonwealth wherein he was born, for other than a fool or a foreigner. When a man writes to the world, he summons up all his reason and deliberation to assist him; he searches, meditates, is industrious, and likely consults and confers with his judicious friends; after which done he takes himself to be informed in what he writes, as well as any that writ before him; if in this, the most consummate act of his fidelity and ripeness, no years, no industry, no former proof of his abilities, can bring him to that state of maturity, as not to be still mistrusted and suspected, unless he carry all his considerate diligence, all his midnight watchings, and expense of Palladian oil, to the hasty view of an unleisured licenser, perhaps much his younger, perhaps far his inferior in judgment, perhaps one who never knew the labour of book-writing, and if he be not repulsed, or slighted, must appear in print like a puny with his guardian, and his censor's hand on the back of his title to be his bail and surety that he is no idiot, or seducer, it can-

not be but a dishonour and derogation to the author, to the book, to the privilege and dignity of Learning. . . . And how can a man teach with authority, which is the life of teaching, how can he be a doctor in his book as he ought to be, or else had better be silent, whenas all he teaches, all he delivers, is but under the tuition, under the correction of his patriarchal licenser to blot or alter what precisely accords not with the hide-bound humour which he calls his judgment? When every acute reader upon the first sight of a pedantic licence, will be ready with these like words to ding the book a quoit's distance from him, I hate a pupil teacher, I endure not an instructor that comes to me under the wardship of an overseeing fist. I know nothing of the licenser, but that I have his own hand here for his arrogance; who shall warrant me his judgment? The State, sir, replies the stationer, but has a quick return, The State shall be my governors, but not my critics; they may be mistaken in the choice of a licenser, as easily as this licenser may be mistaken in an author; this is some common stuff; and he might add from Sir Francis Bacon, That such authorized books are but the language of the times. For though a licenser should happen to be judicious more than ordinary, which will be a great jeopardy of the next succession, yet his very office, and his commission enjoins him to let pass nothing but what is vulgarly received already. Nay, which is more lamentable, if the work of any deceased author, though never so famous in his lifetime, and even to this day, come to their hands for licence to be printed, or reprinted, if there be found in his book one sentence of a venturous edge, uttered in the height of zeal and who knows whether it might not be the dictate of a divine spirit, yet not suiting with every low decrepit humour of their own, though it were Knox himself, the Reformer of a Kingdom, that spake it, they will not pardon him their dash: the sense of that great man shall to all posterity be lost, for the fearfulness, or the presumptuous rashness of a perfunctory licenser. And to what an author this violence hath been lately done, and in what book of greatest consequence to be faithfully published, I could now instance, but shall forbear till a more convenient season. Yet if these things be not resented seriously and timely by them who have the remedy in their power, but that such iron-moulds as these shall have authority to gnaw out the choicest periods of exquisitest books, and to commit such a treacherous fraud against the orphan remainders of worthiest men after death, the more sorrow will belong to that hapless race of men, whose misfortune it is to have understanding. Henceforth let no man care to learn, or care to be more than worldly wise; for certainly in higher matters to be ignorant and slothful, to be a common steadfast dunce, will be the only pleasant life, and only in request.

And as it is a particular disesteem of every knowing person alive, and most injurious to the written labours and monuments of the dead, so to

me it seems an undervaluing and vilifying of the whole Nation. I cannot set so light by all the invention, the art, the wit, the grave and solid judgment which is in England, as that it can be comprehended in any twenty capacities how good soever, much less that it should not pass except their superintendence be over it, except it be sifted and strained with their strainers, that it should be uncurrent without their manual stamp. Truth and understanding are not such wares as to be monopolised and traded in by tickets and statutes and standards. We must not think to make a staple commodity of all the knowledge in the land, to mark and license it like our broadcloth, and our woolpacks. What is it but a servitude like that imposed by the Philistines, not to be allowed the sharpening of our own axes and coulters, but we must repair from all quarters to twenty licensing forges. . . . Nor is it to the common people less than a reproach; for if we be so jealous over them, as that we dare not trust them with an English pamphlet, what do we but censure them for a giddy, vicious, and ungrounded people; in such a sick and weak state of faith and discretion, as to be able to take nothing down but through the pipe of a licenser. That this is care or love of them, we cannot pretend, whenas in those popish places where the laity are most hated and despised the same strictness is used over them. Wisdom we cannot call it, because it stops but one breach of licence; nor that neither, whenas those corruptions, which it seeks to prevent, break in faster at other doors which cannot be shut.

And in conclusion it reflects to the disrepute of our Ministers also, of whose labours we should hope better, and of the proficiency which their flock reaps by them, than that after all this light of the Gospel which is, and is to be, and all this continual preaching, they should still be frequented with such an unprincipled, unedified, and laic rabble, as that the whiff of every new pamphlet should stagger them out of their catechism, and Christian walking. . . . I could recount what I have seen and heard in other countries, where this kind of inquisition tyrannises; when I have sat among their learned men, for that honour I had, and been counted happy to be born in such a place of philosophic freedom, as they supposed England was, while themselves did nothing but bemoan the servile condition into which learning amongst them was brought; that this was it which had damped the glory of Italian wits; that nothing had been there written now these many years but flattery and fustian. There it was that I found and visited the famous Galileo grown old, a prisoner to the Inquisition, for thinking in astronomy otherwise than the Franciscan and Dominican licensers thought. And though I knew that England then was groaning loudest under the prelatical yoke, nevertheless I took it as a pledge of future happiness, that other nations were so persuaded of her liberty. . . . "The punishing of wits enhances their authority," saith the Viscount St. Albans, "and a forbid-

den writing is thought to be a certain spark of truth that flies up in the faces of them who seek to tread it out." This Order therefore may prove a nursing mother to sects, but I shall easily show how it will be a step-dame to Truth; and first by disenabling us to the maintenance of what is known already.

Well knows he who uses to consider, that our faith and knowledge thrives by exercise, as well as our limbs and complexion. Truth is compared in Scripture to a streaming fountain; if her waters flow not in a perpetual progression, they sicken into a muddy pool of conformity and tradition. A man may be a heretic in the truth; and if he believe things only because his Pastor says so, or the Assembly so determines, without knowing other reason, though his belief be true, yet the very truth he holds, becomes his heresy. . . .

Another sort there be, who when they hear that all things shall be ordered, all things regulated and settled; nothing written but what passes through the custom-house of certain Publicans that have the tonnaging and poundaging of all free-spoken truth, will straight give themselves up into your hands, make 'em and cut 'em out what religion [or morality reasoned or unreasoned] ye please; there be delights, there be recreations and jolly pastimes that will fetch the day about from sun to sun, and rock the tedious year as in a delightful dream. What need they torture their heads with that which others have taken so strictly, and so unalterably into their own purveying? These are the fruits which a dull ease and cessation of our knowledge will bring forth among the people. How goodly, and how to be wished were such an obedient unanimity as this, what a fine conformity would it starch us all into! Doubtless a staunch and solid piece of framework, as any January could freeze together. . . .

But if his, [the lazy complacent minister's] rear and flanks be not impaled, if his back door be not secured by the rigid licenser, but that a bold book may now and then issue forth, and give the assault to some of his old collections in their trenches, it will concern him then to keep waking, to stand in watch, to set good guards and sentinels about his received opinions, to walk the round and counter-round with his fellow inspectors, fearing lest any of his flock be seduced, who also then would be better instructed, better exercised and disciplined. And God send that the fear of this diligence, which must then be used, do not make us affect the laziness of a licensing Church.

For if we be sure we are in the right, and do not hold the truth guiltily, which becomes not, if we ourselves condemn not our own weak and frivolous teaching, and the people for an untaught and irreligious gadding rout, what can be more fair, that when a man judicious, learned, and of a conscience, for aught we know, as good as theirs that taught us what we know, shall not privily from house to house, which is more

dangerous, but openly by writing publish to the world what his opinion is, what his reasons, and wherefore that which is now thought cannot be sound? Christ urged it as wherewith to justify himself, that he preached in public; yet writing is more public than preaching; and more easy to refutation, if need be, there being so many whose business and profession merely it is, to be the champions of Truth; which if they neglect, what can be imputed but their sloth, or unability? Thus much we are hindered and disinured by this course of licensing toward the true knowledge of what we seem to know.

There is yet behind of what I purposed to lay open, the incredible loss and detriment that this plot of licensing puts us to; more than if some enemy at sea should stop up all our havens, and ports, and creeks, it hinders and retards the importation of our richest Merchandise, Truth; nay, it was first established and put in practice by Antichristian malice and mystery on set purpose to extinguish, if it were possible, the light of Reformation, and to settle falsehood; little differing from that policy wherewith the Turk upholds his Alcoran, by the prohibition of Printing. . . . Suffer not these licensing prohibitions to stand at every place of opportunity forbidding and disturbing them that continue seeking, that continue to do our obsequies to the torn body of our martyred saint. We boast our light; but if we look not wisely on the Sun itself, it smites us into darkness. . . . The light which we have gained, was given us, not to be ever staring on, but by it to discover onward things more remote from our knowledge. . . . There be who perpetually complain of schisms and sects, and make it such a calamity that any man dissents from their maxims. 'T is their own pride and ignorance which causes the disturbing, who neither will hear with meekness, nor can convince, yet all must be suppressed which is not found in their Syntagma. They are the troublers, they are the dividers of unity, who neglect and permit not others to unite those dissevered pieces which are yet wanting to the body of Truth. To be still searching what we know not, by what we know, still closing up truth to truth as we find it (for all her body is homogeneal, and proportional), this is the golden rule in theology as well as in arithmetic, and makes up the best harmony in a Church; not the orced and outward union of cold, and neutral, and inwardly divided minds. . . . Where there is much desire to learn, there of necessity will be much arguing, much writing, many opinions; for opinion in good men is but knowledge in the making. Under these fantastic terrors of sect and schism, we wrong the earnest and zealous thirst after knowledge and understanding which God hath stirred up in this city. What some lament of, we rather should rejoice at, should rather praise this pious forwardness among men, to reassume the ill-reputed care of their Religion [and the morality of their thinking] into their own hands again. A little generous prudence, a little forbearance of one another,

and some grain of charity, might win all these diligences to join, and unite in one general and brotherly search after Truth, could we but forego this prelatical tradition of crowding free consciences and Christian liberties into canons and precepts of men. I doubt not, if some great and worthy stranger should come among us, wise to discern the mould and temper of a people, and how to govern it, observing the high hopes and aims, the diligent alacrity of our extended thoughts and reasonings in the pursuance of truth and freedom, but that he would cry out as Pyrrhus did, admiring the Roman docility and courage, If such were my Epirots, I would not despair the greatest design that could be attempted to make a Church or Kingdom happy. Yet these are the men cried out against for schismatics, and the perfection [of a great structure architecturally or sociologically] consists in this, that out of many moderate varieties and brotherly dissimilitudes that are not vastly disproportional, arises the goodly and the graceful symmetry that commends the whole pile and structure. Let us therefore be more considerate builders, more wise in spiritual [or moral] architecture, when great reformation is expected. . . . And that we are to hope better of all these supposed sects, and schisms, and that we shall not need that solicitude, honest perhaps though over-timorous, of them that vex in this behalf, but shall laugh in the end, at those malicious applauders of our differences, I have reasons to persuade me. . . Methinks I see in my mind a noble and puissant nation rousing herself like a strong man after sleep, and shaking her invincible locks. Methinks I see her as an eagle mewing her mighty youth, and kindling her undazzled eyes at the full midday beam; purging and unscaling her long-abused sight at the fountain itself of heavenly radiance; while the whole noise of timorous and flocking birds, with those also that love the twilight, flutter about, amazed at what she means, and in their envious gabble would prognosticate a year of sects and schisms.

What should ye do then, should ye suppress all this flowery crop of knowledge and new light sprung up and yet springing daily in this city, should ye set an oligarchy of twenty engrossers over it, to bring a famine upon our minds again, when we shall know nothing but what is measured to us by their bushel? Believe it, Lords and Commons, they who counsel ye to such a suppressing, do as good as bid ye suppress yourselves; and I will soon show how. . . . It is the liberty, Lords and Commons, which your own valorous and happy counsels have purchased us, liberty which is the nurse of all great wits; this is that which hath rarefied and enlightened our spirits like the influence of heaven; this is that which hath enfranchised, enlarged, and lifted up our apprehensions degrees above themselves. Ye cannot make us now less capable, less knowing, less eagerly pursuing of the truth, unless ye first make yourselves, that made us so, less the lovers, less the founders of our true liberty. We

can grow ignorant again, brutish, formal, and slavish, as ye found us; but you then must first become that which ye cannot be, oppressive, arbitrary, and tyrannous, as they were from whom ye have freed us. . . . Give me the liberty to know, to utter, and to argue freely according to conscience, above all [other] liberties. What would be best advised, then, if it be found so hurtful and so unequal to suppress opinions for the newness, or the unsuitableness to a customary acceptance, will not be my task to say; I only shall repeat what I have learned from one of your own honourable number, a right noble and pious lord, who, had he not sacrificed his life and fortunes to the Church and Commonwealth, we had not now missed and bewailed a worthy and undoubted patron of this argument. Ye know him I am sure; yet I for honour's sake, and may it be eternal to him, shall name him the Lord Brook. . . . He exhorts us to hear with patience and humility those, however they be miscalled, that desire to live purely, in such a use of God's ordinances, as the best guidance of their conscience gives them, and to tolerate them, though in some disconformity to ourselves. The book itself will tell us more at large. . . . And though all the winds of doctrine were let loose to play upon the earth, so Truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse, in a free and open encounter. Her confuting is the best and surest suppressing. He who hears what praying there is for light and clearer knowledge to be sent down among us, would think of other matters to be constituted beyond the discipline of Geneva, framed and fabricked already to our hands. Yet when the new light which we beg for shines in upon us, there be who envy, and oppose, if it come not first in at their casements. What a collusion is this, whenas we are exhorted by the wise man to use diligence, to seek for wisdom as for hidden treasures early and late, that another order shall enjoin us to know nothing but by statute? When a man hath been labouring the hardest labour in the deep mines of knowledge, hath furnished out his findings in all their equipage, drawn forth his reasons as it were a battle ranged, scattered and defeated all objections in his way, calls out his adversary into the plain, offers him the advantage of wind and sun, if he please; only that he may try the matter by dint of argument, for his opponents then to skulk, to lay ambushments, to keep a narrow bridge of licensing where the challenger should pass, though it be valour enough in soldiership, is but weakness and cowardice in the wars of Truth. For who knows not that Truth is strong, next to the Almighty; she needs no policies, nor stratagems, nor licensings to make her victorious; those are the shifts and the defences that error uses against her power: give her but room, and do not bind her when she sleeps, for then she speaks not true, as the old Proteus did, who spake oracles only when he was caught and bound, but

then rather she turns herself into all shapes, except her own, and perhaps tunes her voice according to the time, as Micaiah did before Ahab, until she be adjured into her own likeness. Yet is it not impossible that she may have more shapes than one. What else is all that rank of things indifferent, wherein Truth may be on this side, or on the other, without being unlike herself? What but a vain shadow else is the abolition of those ordinances, that hand-writing nailed to the cross; what great purchase is this Christian liberty which Paul so often boasts of? His doctrine is, that he who eats or eats not, regards a day, or regards it not, may do either to the Lord. How many other things might be tolerated in peace, and left to conscience, had we but charity, and were it not the chief stronghold of our hypocrisy to be ever judging one another. I fear yet this iron yoke of outward conformity hath left a slavish print upon our necks; the ghost of a linen decency yet haunts us. We stumble and are impatient at the least dividing of one visible congregation from another though it be not in fundamentals; and through our forwardness to suppress, and our backwardness to recover any enthralled piece of truth out of the gripe of custom, we care not to keep truth separated from truth, which is the fiercest rent and disunion of all. We do not see that while we still affect by all means a rigid external formality, we may as soon fall again into a gross conforming stupidity, a stark and dead congealment of wood, and hay, and stubble forced and frozen together, which is more to the sudden degenerating of a Church than many subdichotomies of petty schisms. Not that I can think well of every light separation, or that all in a Church is to be expected gold and silver and precious stones: it is not possible for man to sever the wheat from the tares, the good fish from the other fry; that must be the Angels' Ministry at the end of mortal things. Yet if all cannot be of one mind, as who looks they should be? this doubtless is more wholesome, more prudent, and more Christian that many be tolerated, rather than all compelled. . . . In the meanwhile, if any one would write, and bring his helpful hand to the slow-moving Reformation which we labour under, [though it pertain to sexual morality] if Truth have spoken to him before others, or but seemed at least to speak, who hath so bejesuited us that we should trouble that man with asking license to do so worthy a deed? and not consider this, that if it come to prohibiting, there is not aught more likely to be prohibited than truth itself; whose first appearance to our eyes bleared and dimmed with prejudice and custom, is more unsightly and unplausible than many errors, even as the person is of many a great man slight and contemptible to see to. And what do they tell us vainly of new opinions, when this very opinion of theirs, that none must be heard, but whom they like, is the worst and newest opinion of all others; and is the chief cause why sects and schisms do so much abound, and true knowledge is kept at distance from us. . . . And if

the men be erroneous who appear to be the leading schismatics, what withholds us but our sloth, our self-will, and distrust in the right cause, that we do not give them gentle meetings and gentle dismissions, that we debate not and examine the matter thoroughly with liberal and frequent audience; if not for their sakes, yet for our own? seeing no man who hath tasted learning, but will confess the many ways of profiting by those who not contented with stale receipts are able to manage, and set forth new positions to the world. . . . But if we in the haste of a precipitant zeal shall make no distinction, but resolve to stop their mouths, because we fear they come with new and dangerous opinions, as we commonly forejudge them ere we understand them, no less than woe to us, while thinking thus to defend the Gospel [and sexual morality], we are found the persecutors.

This I know, that errors in a good government and in a bad are equally almost incident; for what Magistrate may not be misinformed, and much the sooner, if liberty of Printing be reduced into the power of a few; but to redress willingly and speedily what hath been erred, and in highest authority to esteem a plain advertisement more than others have done a sumptuous bribe, is a virtue (honoured Lords and Commons) answerable to your highest actions, and whereof none can participate but the greatest and wisest men.

THOMSON: From Preface to a Speech of JOHN MILTON, "For the Liberty of Unlicenced Printing."

A free Protestant country, without the Liberty of the Press, is a contradiction in terms; it is free slavery or inchained liberty. Light and darkness are not more opposite than liberty and the deprivation of the means of being rational.

Who that loves mankind, is not sorry that anything is ever published tending to confound men's understanding, mislead their judgments, or deprave their morals? But is there any more likely method for sense to prevail against absurdities, than leaving her at full liberty to paint them in her native colors? Can truth be better armed against error than with the mighty blade of uncontrolled reason? Or virtue more surely triumph over immorality, than by the vigorous execution of the truly wholesome laws purposely framed for her support? . . . .

I know it is objected that there is a medium between an absolute liberty of the Press, and an absolute suppression of it; which I admit; but yet aver the medium (by which either licensing, or nothing at all is meant) is far worse on all accounts than either extreme. For though we are indeed told that licensers would serve us with wholesome goods, feed us with food convenient for us, and prevent only the distribution of poison, sure such cant was never meant to impose on any, but those who are

asleep, and cannot see one inch before them. Let no true Briton therefore be deceived by such fallacious speeches, but consider the necessary consequences which must follow, and he will soon find that it is as the flattering language of the strange woman (in the Book of Proverbs) who with her fair smooth tongue beguileth the simple, and leadeth them as an oxe to the slaughter. That plausible and deceitful language leadeth into the chambers of darkness and death.

SECTION II.

FURTHER IMPORTANT DEFENSES OF FREE SPEECH.

BENEDICT SPINOZA: From His Collected Works, 1620-1677.

We have shown already that no man's mind can possibly lie wholly at the disposition of another, for no one can willingly transfer his natural right of free reason and judgment, or be compelled to do so. For this reason government which attempts to control minds is accounted tyrannical, and it is considered an abuse of sovereignty and a usurpation of the rights of subjects, to seek to prescribe what shall be accepted as true, or rejected as false, or what opinions shall actuate men in their worship of God. All these questions fall within a man's natural right, which he cannot abdicate even with his own consent.

I admit that the judgment can be biassed in many ways, and to an almost incredible degree, so that while exempt from direct external control it may be so dependent on another man's words, that it may be fitly said to be ruled by him; but although this influence is carried to great lengths, it has never gone so far as to invalidate the statement that every man's understanding is his own, and that brains are as diverse as palates. . . .

However unlimited, therefore, the power of a sovereign may be, however implicitly it is trusted as the exponent of law and religion, it can never prevent men from forming judgments according to their intellect, or being influenced by any given emotion. It is true that it has the right to treat as enemies all men whose opinions do not, on all subjects, coincide with its own; but we are not discussing its strict rights, but its proper course of action. I grant that it has the right to rule in the most violent manner, and to put its citizens to death for very trivial causes, but no one supposes it can do this with the approval of sound judgment. Nay, inasmuch as such things cannot be done without extreme peril to itself, we may even deny that it has the absolute power to do them, or, consequently, the absolute right; for the rights of the sovereign are limited by his power.

Since, therefore, no one can abdicate his freedom of judgment and feeling; since every man is by indefeasible natural right the master of his own thoughts, it follows that men thinking in diverse and contradictory fashions cannot, without disastrous results, be compelled to speak only according to the dictates of the supreme power. Not even the most ex-

perienced, to say nothing of the multitude, know how to keep silence. Men's common failing is to confide their plans to others, though there be need for secrecy, so that a government would be most harsh which deprived the individual of his freedom of saying and teaching what he thought; and would be moderate if such freedom would be granted. Still we cannot deny that authority may be as much injured by words as by actions; hence, although the freedom we are discussing cannot be entirely denied to subjects, its unlimited concession would be most baneful; we must, therefore, now inquire, how far freedom can and ought to be conceded without danger to the peace of the state, or the power of the rulers; and this, as I said at the beginning of Chapter XVI, is my principal object.

It follows, plainly, from the explanation given above, of the foundations of a state, that the ultimate aim of government is not to rule, or restrain, by fear, nor to exact obedience, but contrariwise, to free every man from fear, that he may live in all possible security; in other words, to strengthen his natural right to exist and work without injury to himself and others.

No, the object of government is not to change men from rational beings into beasts or puppets, but to enable them to develope their minds and bodies in security, and to employ their reason unshackled, neither showing hatred, anger, or deceit, nor watched with the eyes of jealousy and injustice. In fact, the true aim of government is liberty.

Now we have seen that in forming a state the power of making laws must either be vested in the body of the citizens, or in a portion of them, or in one man. For, although men's free judgments are very diverse, each one thinking that he alone knows everything, and although complete unanimity of feeling and speech is out of the question, it is impossible to preserve peace, unless individuals abdicate their right of acting entirely on their own judgment. Therefore, the individual justly cedes the right of free action, though not of free reason and judgment, No one can act against the authorities without danger to the state, though his feelings and judgment may be at variance therewith; he may even speak against them, provided that he does so from rational conviction, not from fraud, anger, or hatred, and provided that he does not attempt to introduce any change on his private authority.

For instance, supposing that a man shows that a law is repugnant to sound reason, and should therefore be repealed; if he submits his opinion to the judgment of the authorities (who, alone, have the right of making and repealing laws), and meanwhile acts in nowise contrary to that law, he has deserved well of the state, and has behaved as a good citizen should; but if he accuses the authorities of injustice, and stirs up the people against them, or if he seditiously strives to abrogate the law without their consent, he is a mere agitator and rebel.

Thus we see how an individual may declare and teach what he believes, without injury to the authority of his rulers, or to the public peace; namely, by leaving in their hands the entire power of legislation *as it affects action*; and by doing nothing against their laws though he be compelled often to act in contradiction to what he believes, and openly feels to be best. . . .

From the fundamental notions of a state, we have discovered how a man may exercise free judgment without detriment to the supreme power: From the same premises we can no less easily determine what opinions would be seditious. Evidently those which by their very nature nullify the compact by which the right of free action was ceded. . . .

However, I do not deny that there are some doctrines which, while they are apparently concerned only with abstract truths and falsehoods, are yet propounded and published with unworthy motives. This question we have discussed in Chapter XV and shown that reason should nevertheless remain unshackled. If we hold to the principle that a man's loyalty to the state should be judged, like his loyalty to God, from his actions only—namely, from his charity towards his neighbors, we cannot doubt that the best government will allow freedom of philosophical speculation no less than of religious belief. I confess that from such freedom inconveniences may sometimes arise, but what question was ever settled so wisely that no abuses could possibly spring therefrom? He who seeks to regulate everything by law, is more likely to arouse vices than to reform them. It is best to grant what cannot be abolished, even though it be in itself harmful. How many evils spring from luxury, envy, avarice, drunkenness and the like, yet these are tolerated—vices as they are—because they cannot be prevented by legal enactments. How much more then should freethought be granted, seeing that it is in itself a virtue and that it cannot be crushed. Besides, the evil results can easily be checked, as I will show, by the secular authorities, not to mention that such freedom is absolutely necessary for progress in science and the liberal arts; for no man follows such pursuits to advantage unless his judgment be entirely free and unhampered.

But let it be granted that freedom may be crushed, and men may be so bound down that they do not dare to utter a whisper, save at the bidding of their rulers; nevertheless this can never be carried to the pitch of making them think according to authority, so that the necessary consequences would be that men would daily be thinking one thing and saying another, to the corruption of good faith, that mainstay of government, and to the fostering of hateful flattery and perfidy whence springs stratagems, and the corruption of every good art.

It is far from possible to impose uniformity of speech, for the more rulers strive to curtail freedom of speech, the more obstinately are they resisted; not indeed by the avaricious, the flatterers, and other numskulls,

who think supreme salvation consists in filling their stomachs and gloating over their money bags, but by those whom good education, sound morality, and virtue have rendered more free. Men, as generally constituted, are most prone to resent the branding as criminal of opinions which they believe to be true, and the prescription as wicked of that which inspires them with their piety towards God and man; hence they are ready to forswear the laws and conspire against the authorities, thinking it not shameful but honorable to stir up seditions and perpetuate any sort of crime with this end in view. Such being the constitution of human nature, we see that laws directed against opinions affect the generous-minded rather than the wicked, and are adapted less for coercing criminals than for irritating the upright; so that they cannot be maintained without great peril to the state.

Moreover, such laws are almost always useless, for those who hold that the opinions proscribed are sound, cannot possibly obey the law; whereas those who already reject them as false, accept the law as a kind of privilege, and make such boast of it, that authority is powerless to repeal it, even if such a course be subsequently desired.

To these considerations may be added what we said in Chapter XVIII in treating of the history of the Hebrews. And, lastly, how many schisms have arisen in the Church from the attempts of the authorities to decide by law the intricacies of theological controversy.

JOHN LOCKE: From "Four Letters on Toleration in Religion," 1689.

No man complains of the ill-management of his neighbour's affairs. No man is angry with another for an error committed in sowing his land, or in marrying his daughter. Nobody corrects a spendthrift for consuming his substance in taverns. Let any man pull down, or build, or make whatsoever expenses he pleases, nobody murmurs, nobody controuls him; he has his liberty. But if any man do not frequent the church, if he do not there conform his behaviour exactly to the accustomed ceremonies, or if he brings not his children to be initiated in the sacred mysteries of this or the other congregation; this immediately causes an uproar, and the neighbourhood is filled with noise and clamour. Every one is ready to be the avenger of so great a crime. And the zealots hardly have patience to refrain from violence and rapine, so long till the cause be heard, and the poor man be, according to form, condemned to the loss of liberty, goods, or life. Oh that our ecclesiastical orators, of every sect, would apply themselves, with all the strength of arguments that they are able, to the confounding of men's errors! But let them spare their persons. Let them not supply their want of reasons with the instruments of force, which belong to another jurisdiction, and do ill

become a churchman's hands. Let them not call in the magistrate's authority to the aid of their eloquence, or learning; lest perhaps, whilst they pretend only love for the truth, this their intemperate zeal, breathing nothing but fire and sword, betray their ambition, and shew that what they desire is temporal dominion. For it will be very difficult to persuade men of sense, that he, who with dry eyes, and satisfaction of mind, can deliver his brother unto the executioner, to be burnt alive, does sincerely and heartily concern himself to save that brother from the flames of hell in the world to come.

Laws provide, as much as possible, that the goods and health of subjects be not injured by the fraud or violence of others; they do not guard them from the negligence or ill-husbandry of the possessors themselves. No man can be forced to be rich or healthful, whether he will nor no. Nay, God himself will not save men against their wills. I may grow rich by an art that I take not delight in; I may be cured of some disease by remedies that I have not faith in; but I cannot be saved by a religion that I distrust, and by a worship that I abhor.

Covetousness, uncharitableness, idleness, and many other things are sins, by the consent of all men, which yet no man ever said were to be punished by the magistrate. The reason is because they are not prejudicial to other men's rights, nor do they break the publick peace of societies. Nay, even the sins of lying and perjury are nowhere punishable by laws; unless in certain cases, in which the real turpitude of the thing, and the offence against God, are not considered, but only the injury done unto men's neighbours, and to the commonwealth.

For if men enter into seditious conspiracies, it is not religion inspires them to it in their meetings, but their sufferings and oppressions that make them willing to ease themselves. Just and moderate governments are everywhere quiet, everywhere safe. But oppression raises ferments, and makes men struggle to cast off an uneasy and tyrannical yoke. I know that seditions are very frequently raised upon pretence of religion. But it is as true, that, for religion, subjects are frequently ill treated, and live miserably. Believe me, the stirs that are made, proceed not from any peculiar temper of this or that church or religious society; but from the common disposition of all mankind, who when they groan under an heavy burthen, endeavor naturally to shake off the yoke that galls their necks.

Some enter into company for trade and profit; others, for want of business, have their clubs for claret. Neighbourhood joins some, and religion others. But there is one only thing which gathers people into seditious commotions, and that is oppression.

I will suppose, that as force applied your way is apt to make the inconsiderate consider, so force applied another way is apt to make the lascivious chaste. The argument then, in your form, will stand thus:

"Who can deny but that force, indirectly, and at a distance may, by castraction, do some service towards bringing men to embrace that chastity, which otherwise they would never acquaint themselves with." Thus, you see, "castraction may, indirectly, and at a distance, be serviceable towards the salvation of mens souls." But will you say, from such a usefullness as this, because it may be indirectly, and at a distance, conduce to saving of any of his subject's souls, that therefore the magistrate has a right to do it, and may by force make his subjects eunuchs for the kingdom of Heaven? It is not for the magistrate, or anybody else, upon an imagination of its usefullness, to make use of any other means for the salvation of men's souls than what the Author and Finisher of our faith hath directed. You may be mistaken in what you think useful.

A pretty remedy and manifestly effectual at first sight—that because men were all promiscuously apt to be misled in their judgment, or choice of their religion, by passion, lust, and other men, therefore they should chuse some amongst themselves, who might, they and their successors, men made just like themselves, punish them that rejected the true religion.

But when one man shall think himself a competent judge that the true religion is proposed with evidence sufficient for another; and thence shall take upon him to punish him as an offender, because he embraces not, upon evidence that he, the proposer, judges sufficient, the religion that he judges true; he had need be able to look into the thoughts of men, and know their several abilities; unless he will make his own understanding and faculties to be the measure of those of all mankind, which if they be no higher elevated, no larger in their comprehensions, no more discerning, than those of some men, he will not only be unfit to be a judge in that, but in almost any case whatsoever.

But seducers, if they be tolerated, will be ready at hand, and diligent; and men will harken to them. Seducers surely have no force on their side, to make people harken. And if this be so, there is a remedy at hand, better than force, if you and your friends will use it, which cannot but prevail; and that is, let the ministers of truth be as diligent; and they bringing truth with them, truth obvious and easy to understand, as you say what is necessary to salvation is, cannot but prevail. But seducers are harkened to, because they teach opinions favourable to men's lusts. Let the magistrate, as is his duty, hinder the practices which their lusts would carry them to, and the advantage will still be on the side of truth.

After all, Sir, if, as the apostle tells the Corinthians (1 Cor. XI. 19), "There must also be heresies among you, that they which are approved may be made manifest"; which, I beseech you, is best for the salvation of men's souls; that they should enquire, hear, examine, consider, and then have the liberty to profess what they are persuaded of; or, not hav-

ing considered they should be forced not to own nor follow their persuasions; or else, that being of the national religion, they should go ignorantly on without any consideration at all? In one case, if your penalties prevail, men are forced to act contrary to their consciences, which is not the way to salvation; and if the penalties prevail not, you have the same fruits, sects, and heresies, as under toleration; in the other, it is true, those ignorant, loose, unthinking conformists, do not break company with those who embrace the truth that will save them, but I fear can no more be said to have any share in it than those who openly dissent from it. For it is not being in the company, but having on the wedding garment, that keeps men from being bound hand and foot, and cast into a dreadful and external prison.

If you can make it practicable that the magistrate should punish men for rejecting the true religion, without judging which is the true religion or if the true religion could appear in person, take the magistrate's seat, and there judge all that rejected her; something might be done. But the mischief of it is, it is a man that must condemn, men must punish, and men cannot do this but by judging who is guilty of the crime which they punish. Suppose the magistrate be commissioned to punish those who depart from right reason, the magistrate can never yet punish any one, unless he be judge what is right reason; and then judging that murder, theft, adultery, narrow cart-wheels, or want of bows and arrows in a man's house, are against right reason, he may make laws to punish men guilty of those, as rejecting right reason.

I having said, That if such an indirect and at a distance usefulness were sufficient to justify the use of force, the magistrate might make his subjects eunuchs for the use of heaven; you reply that you suppose I will not say "castraction is necessary, because you hope I acknowledge, that marriage, and that grace which God denies to none who seriously ask it, are sufficient for that purpose." And I hope you acknowledge that preaching, admonitions, and instructions, and that grace which God denies to none who seriously ask it, are sufficient for salvation. So that by this answer of yours, there being no more necessity of force to make men of the true religion, than there is of castraction to make men chaste, it will still remain that the magistrate, when he thinks fit, may upon your principles as well castrate men to make them chaste, as use force to make them embrace the truth that must save them.

If castraction be not necessary, "because marriage and the grace of God is sufficient," without it; nor will force be necessary because preaching and the grace of God is sufficient without it; and this, I think, by your own rule, where you tell us, "Where there are many useful means, and some of them are sufficient w'out the rest, there is no necessity of using them all." So that you must either quit your necessity of force, or take in castraction too; which, however it might not go down with the

untractable and desperately perverse and obstinate people in these Western countries, yet is a doctrine you may hope may meet with a better reception in the Ottoman empire, and recommend you to some of my Mahometans.

If therefore religion of dissenters from the true be a fault to be punished by the magistrate who is to judge who are guilty of that fault? Must it be the magistrate everywhere, or the magistrate in some countries, and not in others, or the magistrate nowhere? If the magistrate nowhere is to be judge who are dissenters from the true religion, he can nowhere punish them. If he be to be everywhere judge, then the king of France or the Great Turk must punish those whom they judge dissenters from the true religion, as well as other potentates. If some magistrates have a right to judge, and others not; that yet I fear, how absurd soever it be, should I grant it, will not do your business. For besides that, they will hardly agree to make you their infallible umpire in the case, to determine who of them have, and who have not, this right to judge which is the true religion; or if they should, and you should declare the king of England had that right, viz., whilst he complied to support the orthodoxy, ecclesiastical polity, and those ceremonies which you approve of; but that the king of France, and the great Turk, had it not, and so could have no right to use force on those they judged dissenters from the true religion; you ought to bethink yourself what you will reply to one that should use your own words: "If such a degree of outward force, as has been mentioned, be really of great and even necessary use, for the advancing of the true religion, and salvation of souls," then it must be acknowledged, that in France and Turkey, etc., there is right somewhere to use it, for the advancing those ends: unless we will say (what without impiety cannot be said) that the wise and benign Disposer and Governor of all soever, would have denied you that liberty; and if I mistake not the party you say you write for, demands it of you.

If you find upon a review of the whole, that you have managed your cause for God and the souls of men with that sincerity and clearness that satisfies your own reason, and you think may satisfy that of other men, I shall congratulate to you so happy a constitution. But if all your magnified and necessary means of force, in the way you contend for, reaches no further than to bring men to a bare outward conformity to the Church of England, wherein you can sedately affirm that it is presumable that all that are of it are so upon reason and conviction; I suppose there needs no more to be said to convince the world what party you write for.

You were more than ordinary reserved and gracious, when you tell me, that "What party you write for, you will not undertake to say." But having told me that my Letter tends to the promoting of scepticism in religion, you thought, it is like, that was sufficient to shew the party

I write for; and so you might safely end your Letter with words that looked like civil. But that you may another time be a little better informed what party I write for, I will tell you. They are those who in every nation fear God, work righteousness, and are accepted with him; and not those who in every nation are zealous for human constitutions, cry up nothing so much as outward conformity to the national religion, and are accepted by those who are the promoters of it. Those that I write for are those, who, according to the light of their own consciences, are everywhere in earnest in matters of their own salvation, without any desire to impose on others; a party so seldom favoured by any of the powers or sects of the world; a party that has so few preferments to bestow; so few benefices to reward the endeavour of any one who appears for it, that I conclude I shall easily be believed when I say, that neither hopes of preferment, nor a design to recommend myself to those I live amongst, has biassed my understanding, or misled me in my undertaking. So much truth as serves the turn of any particular church, and can be accommodated to the narrow interest of some human constitution, is indeed often received with applause, and the publisher finds his account in it. But I think I may say, truth, in its full latitude of those generous principles of the Gospel, which so much recommend and inculcate universal charity, and a freedom from the inventions and impositions of men in the things of God, has so seldom had a fair and favourable hearing anywhere, that he must be very ignorant of the history and nature of man, however dignified and distinguished, who proposes to himself any secular advantage by writing for her at that rate.

M. DE VOLTAIRE: From "A Treatise on Religious Toleration," about 1750.

In a word, toleration hath never been the cause of a civil war; while, on the contrary, persecution hath covered the earth with blood and carnage. Let any one judge then of these two rivals; between the mother who is ready to destroy her child, and her who is willing to part with it, in order to save its life. . . .

The greater variety of sectaries there are, the less each becomes dangerous: their multiplicity diminishes their power, while all are confined within the prudent boundaries of the laws, which prohibit tumultuous assemblies, riots and seditions, by the constant and due exertion of their restrictive force. . . .

Time has been when it was judged expedient to enact laws against those who should teach any doctrines contrary to the categories of Aristotle, to nature's abhorrence of a vacuum, to metaphysical quiddities, and the whole or the part of the thing. We have still in different parts of Europe above an hundred volumes of jurisprudence, on the subject of

sorcery, and on the methods of distinguishing true conjurers from false. The custom of excommunicating grasshoppers, and other insects hurtful to the grain, was once very common, the form of it subsisting at this day in several rituals; the practice itself, however, is now totally abolished, and Aristotle rests in peace, together with the wizards and grasshoppers. Instances of these grave and heretofore important absurdities are innumerable; others have again from time to time arisen, have had their day, and been annihilated. Hence, should any one, at this time, take it into his head to be a Carpocratian, an Eutichian, a Monothelite, Monophisite, Nestorian, or Manichean, what would be the consequence? He would be laughed at, as equally ridiculous with a modern fine lady who should go to court in the antique dress of a ruff and farthingale. . . .

The rights of humanity are in all cases founded on the laws of nature, the great and universal principle, both of one and the other, being this, *Do nothing to others which you would not have them do to you.* Now I cannot see how, on this principle, one man is authorized to say to another, *Believe what I believe, and what you cannot, or you shall be put to death.* And yet this is said in direct terms in Portugal, Spain, and at Goa. In some other countries, indeed, they now content themselves with saying only, *Believe as I do, or I shall hate you, and will do you all the mischief in my power. What an impious monster thou art! Not to be of my religion is to be of none. You ought to be held in abhorrence by your neighbors, your countrymen, and by all mankind. . . .*

The right of persecution is therefore absurd and barbarous; it is the right of tigers, tho' so much the more horrid, as the tigers have a plea of hunger, and devour men with a view to make them a prey; while men destroy each other for the sake of mere problems. . . .

Should a party of young Jesuits, knowing that the church holds reprobates in abhorrence, that the Jansenists are condemned by a bull, and are therefore reprobates; I say, should these young zealots take it into their heads to set fire to one of the houses of the fathers of the Oratory, because Quesnel, one of their fraternity, was a Jansenist; it is certain the government would have a right to punish those young Jesuits.

In like manner, if they inculcate criminal maxims, if their institution be contrary to the laws of the kingdom, their company may be legally dissolved, and it is right to abolish the Jesuits, in order to convert them into good subjects. This abolition also, tho' an imaginary evil, is to them in fact a real good; for where is the harm done them, in making them wear a short coat instead of a cassoc, and in making them free men, instead of slaves? In the time of peace, whole regiments of soldiers are disbanded, and no body complains: why then should the Jesuits make such loud complaints that they are disbanded, in order to obtain peace?

One of the most astonishing examples of fanaticism we meet with, was that of a little sect in Denmark; the principle of which, notwithstand-

ing, was the best in the world. These people were desirous of procuring eternal salvation for their brethren; but the consequences of this motive were very singular. They knew that those young children who died without being baptized, must be damned, and that such as are so happy as to die immediately after baptism, enjoy eternal life; they went about therefore cutting the throats of all the newly-baptized infants they could lay their hands on. By this method they, doubtless, procured them the greatest happiness they were capable of; as they preserved them at once from committing sin, from the miseries of the world, and from hell-fire. But these charitable people did not reflect, that we are not even to do a little evil for the sake of a great good; that they had no right over the lives of those children; that most fathers and mothers are so carnally-minded, that they had rather clasp their sons and daughters in their arms, than see their throats cut in order to go to paradise; and that finally it is the duty of the civil magistrate to punish homicide by death, however charitable might be the intention of the murderer.

FRIENDS OF FREE INQUIRY: From "A Declaration" 1792; and FRIENDS TO THE LIBERTY OF THE PRESS: From "Resolutions of The First Meeting," 1793

THE NECESSITY of the inhabitants of every community endeavouring to procure a true knowledge of their rights, their duties, and their interests, will not be denied, except by those who are the slaves of prejudice, or the interested in the continuation of abuses. As men who wish to aspire to the title of freemen, we totally deny the wisdom and the humanity of the advice to approach the defects of government with "pious awe and trembling solicitude." What better doctrine could the pope, or the tyrants of Europe desire? We think, therefore, that the cause of truth and justice can never be hurt by temperate and honest discussions; and that a cause which will not bear such scrutiny, must be systematically or practically bad. We are sensible that those who are not friends to the general good, have attempted to inflame the public mind with the cry of "danger," whenever men have associated for discussing the principles of government; and we have little doubt but such conduct will be pursued in this place; we would, therefore, caution every honest man, who has really the welfare of the nation at heart, to avoid being led away by the prostituted clamours of those who live on the sources of corruption. We pity the fears of the timorous, and we are totally unconcerned respecting the false alarms of the venal. We are in the pursuit of truth, in a peaceable, calm, and unbiassed manner; and wherever we recognize her features, we will embrace her as the companion of happiness, of wisdom, and of peace. This is the mode of our conduct; the reasons for it will be found in the

following declaration of our opinions, to the whole of which each member gives his hearty assent. . . .

Resolved: That the Liberty of the Press is a right inseparable from the Principles of a free government, and essential to the security of the British constitution.

That this liberty consists in the free discussion and examination of the principles of civil Government, and of all matters of public opinion.

. . . .

That we have therefore seen with uneasiness and alarm the formation of certain societies, which, under the pretence of supporting the executive magistrate, and defending the Government against sedition, have held out general terrors against the circulation of writings, which without describing them, they term seditious; and entered into subscriptions for the maintenance of prosecutions against them; a proceeding doubtful as to its legality, unconstitutional in its principle, oppressive in its operation, and destructive of the Liberty of the Press.

Rev. ROBERT HALL: From "An Apology for the Liberty of The Press," 1793.

The most capital advantage an enlightened people can enjoy is the liberty of discussing every subject which can fall within the compass of the human mind; while this remains, freedom will flourish; but should it be lost or impaired, its principles will neither be well understood or long retained. To render the magistrate a judge of truth, and engage his authority in the suppression of opinions, shews an inattention to the nature and design of political society. When a nation forms a government, it is not wisdom but *power* which they place in the hands of the magistrate; from whence it follows, his concern is only with those objects which *power* can operate upon. On this account, the administration of justice, the protection of property, and the defence of every member of the community from violence and outrage, fall naturally within the province of the civil ruler, for these may all be accomplished by *power;* but an attempt to distinguish truth from error, and to countenance one set of opinions to the prejudice of another, is to apply power in a manner mischievous and absurd. To comprehend the reasons on which the right of public discussion is founded, it is requisite to remark the difference between *sentiment* and *conduct.* The *behaviour* of men in society will be influenced by motives drawn from the prospect of good and evil: here then is the proper department of government, as it is capable of applying that good and evil by which actions are determined. Truth on the contrary is quite of a different nature, being supported only by *evidence,* and, as when this is presented,

we cannot withhold our assent, so where this is wanting, no power or authority can command it.

However some may affect to dread controversy, it can never be of ultimate disadvantage to the interests of truth, or the happiness of mankind. Where it is indulged in its full extent, a multitude of ridiculous opinions will, no doubt, be obtruded upon the public; but any ill influence they may produce cannot continue long, as they are sure to be opposed with at least equal ability, and that superior advantage which is ever attendant on truth. The colours with which wit or eloquence may have adorned a false system will gradually die away, sophistry be detected, and everything estimated at length according to its true value. Publications besides, like every thing else that is human, are of a mixed nature, where truth is often blended with falsehood, and important hints suggested in the midst of much impertinent or pernicious matter; nor is there any way of separating the precious from the vile but tolerating the whole. Where the right of unlimited enquiry is exerted, the human faculties will be upon the advance; where it is relinquished, they will be of necessity at a stand, and will probably decline.

If we have recourse to experience, that kind of enlarged experience in particular which history furnishes, we shall not be apt to entertain any violent alarm at the greatest liberty of discussion; we shall there see that to this we are indebted for those improvements in arts and sciences, which have meliorated in so great a degree the condition of mankind. The middle ages, as they are called, the darkest period of which we have any particular accounts, were remarkable for two things: The extreme ignorance that prevailed, and an excessive veneration for received opinions; circumstances, which, having been always united, operate on each other, it is plain, as cause and effect. The whole compass of science was in those times subject to restraint; every new opinion was looked upon as dangerous. To affirm the globe we inhabit to be round, was deemed heresy, and for asserting its motion, the immortal Galileo was confined in the prisons of the Inquisition. Yet, it is remarkable, so little are the human faculties fitted for restraint, that its utmost rigour was never able to effect a thorough unanimity, or to preclude the most alarming discussions and controversies. For no sooner was one point settled than another was started, and as the articles on which men professed to differ were always extremely few and subtle, they came the more easily into contact, and their animosities were the more violent and concentrated. The shape of the tonsure, or manner in which a monk should shave his head, would then throw a whole kingdom into convulsions. In proportion as the world has become more enlightened, this unnatural policy of restraint has retired; the sciences it has entirely abandoned, and has taken its last stand on religion and politics. The first of these was long considered of a nature so peculiarly sacred, that

every attempt to alter it, or to impair the reverence for its received institutions, was regarded under the name of heresy as a crime of the first magnitude. Yet, dangerous as free enquiry may have been looked upon, when extended to the principles of religion, there is no department where it was more necessary, or its interference more decidedly beneficial.

. . . Every thing that is really excellent will bear examination, it will even invite it, and the more narrowly it is surveyed, to the more advantage will it appear.

THOMAS ERSKINE: From His Speeches, about 1795.

We assemble neither to reprehend, nor to dictate to others, but from principle of public duty to enter our solemn protest against the propriety or justice of those Associations, which by the contagion of example are spreading fast over England, supported by the Subscriptions of opulent men for the avowed object of *suppressing and prosecuting* Writings; more especially when accompanied with rewards to Informers: *and above all,* when these rewards are extended (of which there are instances), to question and to punish opinions delivered even in the private intercourses of domestic life; unmixed with any act or manifested intention against the authority of the Laws. . . .

"We have further to remark, that these objections to popular associations for the prosecution of crimes, apply with double force when directed against the Press, than against any other objects of criminal justice which can be described or imagined. . . . The Press, then, as it is to be affected by Associations of individuals to fetter its general freedom, *wholly unconnected with any attack upon private character,* is a very different consideration; for if the nation is to be combined to suppress writings, without further describing what those writings are, than by the general denomination—*seditious;* and if the exertions of these combinations are not even to be confined to suppress and punish the circulation of books, *already condemned by the judgments of Courts,* but are to extend to whatever does not happen to fall in with their private judgments—if every writing is to be prosecuted which they may not have the sense to understand, or the virtue to practise—if no man is to write but upon their principles, nor can read with safety except what they have written, lest he should accidentally talk of what he has read—no man will venture either to write or to speak upon the topics of Government or its Administration—a freedom which has ever been acknowledged by our greatest statesmen and lawyers to be the principal

safeguard of that Constitution which liberty of thought originally created, and which a FREE PRESS for its circulation gradually brought to maturity.

We *will* therefore *maintain* and *assert* by all legal means this sacred and essential privilege, the Parent and Guardian of every other. We *will maintain* and *assert* the right of instructing our fellow-subjects by every sincere and conscientious communication which may promote the public happiness; and while we render obedience to Government and to Law, we *will* remember at the same time, that as they exist by the People's consent and for the People's benefit, they have a right to examine their principles, to watch over their due execution, and to preserve the beautiful structure of their Constitution, by pointing out as they arise those defects and corruptions which the hand of Time never fails to spread over the wisest of human institutions.

If in the legal and peaceable assertion of this Freedom we shall be calumniated and persecuted, we must be contented to suffer in the cause of Freedom, as our fathers before us have suffered; but we will, like our fathers, also persevere until we prevail. . . .

Men cannot communicate their free thoughts to one another with a lash held over their heads. It is the nature of everything that is great and useful, both in the animate and inanimate world, to be wild and irregular—and we must be contented to take them with the allies which belong to them, or live without them. Genius breaks from the fetters of criticism, but its wanderings are sanctioned by its majesty and wisdom, when it advances in its path; subject it to the critic, and you tame it into dullness. Mighty rivers break down their banks in the winter, sweeping away to death the flocks which are fattened on the soil that they fertilize in the summer; the few may be saved by embankment from drowning, but the flock must perish from hunger. Tempests occasionally shake our dwellings and dissipate our commerce; but they scourge before them the lazy elements, which without them would stagnate into pestilence. In like manner, Liberty herself, the last and best gift of God to His creatures, must be taken just as she is; you might bear her down into bashful irregularity, and shape her into a perfect model of severe scrupulous law, but she would then be Liberty no longer; and you must be content to die under the lash of this inexorable justice which you have exchanged for the banners of freedom. . . .

The press must be free; it has always been so and much evil has been corrected by it. If Government finds itself annoyed by it, let it examine its own conduct and it will find the cause—let it amend it and it will find the remedy. . . . A free and unlicensed press, in the just and legal

sense of the expression, has led to all the blessings, both of religion and government, which Great Britain, or any [other] part of the world, at this moment enjoys, and is calculated still further to advance mankind to higher degrees of civilization and happiness. . . . Government in its own estimation has been at all times a system of protection; but a free press has examined and detected its errors and the people have from time to time reformed them.

This is the true value of a free press: the more men are enlightened the better will they be qualified to be good subjects of a good government. . . .

A spirit that will look at nothing dispassionately, and which, though proceeding from a zeal and enthusiasm for the most part honest and sincere, is nevertheless as pernicious as the wicked fury of demons, when it is loosened from the sober dominion of slow and deliberate justice.

These Associators to prosecute, who keep watch of late upon our words and upon our looks, are associated, it seems, to preserve our excellent constitution from the contagion of France, where an arbitrary and tyrannous democracy, under the colour of popular freedom, destroys all the securities and blessings of life—but how does it destroy them? How, but by the very means that these new partners of executive power would themselves employ, if we would let them—by inflicting, from a mistaken barbarous state necessity, the severest punishments for offenses never defined by the law—by inflicting them upon suspicion instead of evidence, and in the blind, furious, and indiscriminate zeal of persecution, instead of by the administration of a sober and impartial jurisprudence.*

Such a vexatious system of inquisition, the disturber of household peace, began and ended with the Star Chamber—the venerable law of England never knew it—her noble, dignified, and humane policy soars above the little irregularities of our lives, and disdains to enter our closets without a warrant founded upon complaint. Constructed by man to regulate human infirmities, and not by God to guard the purity of angels, it leaves to us our thoughts, our opinions, and our conversations, and punishes only overt acts of contempt and disobedience to her authority.

Every man not intending to mislead, but seeking to enlighten others with what his own reason and conscience, however erroneously, have dictated to him as truth, may address himself to the universal intelligence of a whole nation, either upon the subject of governments in general, or upon that of his own individual country. He may analyze the principles of its constitutions—point out its errors and defects—examine and publish its corruption—warn his fellow-citizens against their ruin-

*How exactly this all describes our conditions under vice societies and obscenity laws!

ous consequences, and exert his whole faculties in pointing out the most advantageous change in establishments which he considers to be radically defective or sliding from their object by abuse. All this, every subject of this country has a right to do, if he contemplates only what he thinks would be for its advantage, and but seeks to change the public mind by the conviction which flows from reasonings dictated by conscience.

TUNIS WORTMAN: From "Treatise Concerning Political Inquiry and Liberty of The Press," 1800.

IT HAS been practically maintained by the advocates of mystery that a people can be governed only by stratagem and imposture. . . . But by what unheard-of arguments can it be maintained that the exercise of the rational faculties is criminal or prejudicial to the general welfare? Until this extraordinary position is established, no human legislature can deny our right to the most unbounded latitude of investigation. . . .

It must ever remain the inherent and incontrovertible right of society to dissolve its political constitution, whenever the voice of public opinion has declared such dissolution to be essential to the general welfare. Society must, therefore, necessarily possess the unlimited right to examine and investigate. If government is the instrument which they adopted for the promotion of general good; if it is the creature which they invested with powers for effecting the benevolent design of social felicity, it is society that must determine whether these purposes have been realized, or how far they have been departed from. It follows, therefore, as a necessary consequence, that the government which attempts to coerce the progress of opinion, or abolish the freedom of investigation into political affairs, materially violates the most essential principles of the social state. . . .

It is a position universally true, that knowledge is the only preservative against the inordinate excitement of the passions. It is the genuine and incessant operation of judgment to estimate the consequences of human action, and to decide upon its propriety, from the effects which are probable to result. . . . Knowledge is the only guardian principle which can rescue us from the fatal despotism of irregular excitement. The extension of science is the only rational method of establishing the universal empire of truth and virtue. . . .

It will not perhaps be traveling too far into the regions of speculation, to assert, that in proportion as we become proficient in knowledge, our conduct will be governed by the regular influence of motive; the number of our voluntary actions will receive perpetual accession, while those which are automatic will proportionately decrease. . . . It follows, therefore, that the government which attempts to impede the universal

dissemination of science, or to restrain the unlimited career of intellect, may be classed among the most inveterate enemies of the human species. . . .

The government that interferes with the progress of opinion, subverts the essential order of the social state. . . .

Is it not of all absurdities the most incongruous, that government should dictate perpetual silence and torpor to those who excel in intellect? On the other hand, can it exercise a more atrocious despotism than to debar those who are inferior in intelligence, from that intellectual improvement which is the characteristic of our species? . . .

The formation of general opinion upon correct and salutary principles, requires the unbiased exercise of individual intellect; neither prejudice, authority, or terror, should be suffered to impede the liberty of discussion; no undue influence should tyrannize over mind; every man should be left to the independent exercise of his reflection; all should be permitted to communicate their ideas with the energy and ingenuousness of truth. . . .

There is no species of tyranny more pernicious in its consequences than that which is exerted to impede the progress of intellect. . . . Slavery will inevitably produce mental debility and degradation. Unless the mind is conscious of liberty to reflect and expatiate, it will be wholly incapable of sublime and energetic exertion. . . .

Unless individuals are permitted to reflect and communicate their sentiments upon every topic, it is impossible that they should progress in knowledge. . . . Without establishing the liberty of enquiry, and the right of disseminating our opinions, it must always be our portion to remain in a state of barbarism, wretchedness, and degradation. . . .

It is impossible that the imagination should conceive a more horrible and pernicious tyranny than that which should restrain Intercourse of Thought. . . .

It is the constant tendency of Licentiousness to defeat its own purposes. In a state of Society which admits of continual and unrestrained discussion, the triumph of Falsehood can never be of permanent duration. . . .

To invest the public magistrate with the power of restricting public Opinion, would be to trust the progress of Information to the mercy and pleasure of a Government! More formidable dangers are justly to be apprehended from arming the constituted organs of Authority with a power to arrest the career of Human Intellect, than from all the evils attributable to Licentiousness. . . .

Prejudice may boast of her fascination, and Tyranny may exult in his chains; Superstition may administer the slumbering opiate, and Delusion may continue to practise her magical artifices: the Rays of Intellectual Light will still proceed to brighten and increase, and the

days of Liberty and Science succeed to the gloomy night of Ignorance and Despotism.

JEREMY BENTHAM: From "On Liberty of The Press and Public Discussion," 1821

Against the allowance of this liberty [of the press], considered with a view to its effect on the goodness of the government, no arguments that have been, or may be adduced, will bear the test of examination.

1. First comes *dangerousness.* Dangerous, it always and everywhere is; for it may lead to insurrection, and thus to civil war; and such is its continual tendency.

Answer. In all liberty, there is more or less of danger; and so there is in all power. The question is—in which is there most danger—in power limited by this check, or in power without this check to limit it. In those political communities in which this check is in its greatest vigour, the condition of the members, in all ranks and classes taken together is, by universal acknowledgment, the happiest. These are the Anglo-American United States, and the Kingdom of Great Britain and Ireland. In the Republic, this liberty is allowed by law, and exists in perfection; in the Kingdom it is prescribed by law, but continues to have place, in considerable degree, in spite of law.

. . . .

Still the same division—the same most simple and commodious division—of human kind into two classes: The *good,* those by whom our purposes are served; the *bad,* those by whom they are thwarted; and no sooner is it seen or thought, that the *good* creatures, who, till this moment served our purposes, thwart them, than their essence is changed, and they become *bad* ones. Yes; this is the division you may see made by legitimacy all the world over. *Above,* all excellence; *beneath,* all depravity. Such is the arrangement—the systematical arrangement—of which Despotism is the Linnæus. In the English statute book, not a page in which it is not assumed and acted upon. Most excellent Majesty! O yes! most excellent; but Most Excellent in what? And from Majesty down to simple Knighthood runs the scale of excellence. . . .

Behold then the distinction between a government that is despotic, and one that is not so. In an undespotic government, some *eventual faculty of effectual resistence,* and consequent change in government, is purposely left, or rather given, to the people.

Not inconsistent with government, on the contrary, indispensable to good government, is the existence of this faculty. Not inconsistent; for so experience, as you will see, proves.

3. Next to nothing is the danger from the existence, in comparison

with that from the non-existence, of this faculty. Everywhere, and at all times, on the part of the subject many, howsoever treated, exists the disposition to obsequiousness. *Birth*, observation of the direction taken by *rewards* and *punishments*, by *praise* and *dispraise*, and of the habit, language of all around—by the concurrence of all these causes is the disposition produced, and kept up.

To alter or weaken this disposition, in such sort as to produce revolution in government, or considerable mischief to person or property of individuals, nothing ever has sufficed, or ever can suffice, short of the extremity of misrule. . . .

Of a government that is not despotic, it is therefore the essential character, even to *cherish* the disposition to eventual resistance. On some other occasion you shall see—such of you as will honour my pages with a glance—how effectually and pointedly that indispensable element of security has been cherished; cherished by the only government that stands upon a rock—the government of the Anglo-American United States. Meantime see to this purpose—such, if any of you, as have in hand the means—the liberticide Act of Congress, *approved July* 14, 1798; not forgetting the marginal note indicating the glorious *expiration* of it.

Instruments necessary to the existence of such a disposition, in a state adequate to the production of the effect, are *instruction*, *excitation*, *correspondence*. To the understanding applies instruction; to the will, excitation; both are necessary to appropriate action and correspondent effect: instruction and excitation, in the case of each individual taken separately; correspondence, for the sake of concert amongst the number of individuals requisite and sufficient for the production of the ultimate effect. Co-extensive with the instruction and the excitation must be the correspondence; and, therefore, as far as depends upon the government, under the government, if not a despotic one, will be the facility allowed and afforded to correspondence. When, to a national purpose, exertions on a national scale are necessary, exertions made without concert (need it be said) are made without effect.

By instruction, excitation, and faculty of correspondence—by these three instruments in conjunction—and not by any one or two of them alone—can the national mind be kept in a state of appropriate preparation; a state of preparation for eventual resistance. It is by the conjunct application of all these instruments, that minds are put and kept in a proper state of discipline, as bodies are by the military exercise.

From this state of full and constant preparation result two perfectly distinct, though so intimately connected, uses: 1. Effecting a change in government, if ever and when necessary. 2. In the mean time, preventing, or at least retarding, the necessity, by the constant application of a check to misrule as applied to individual cases—to misrule in all its several shapes.

Necessary to instruction—to excitation—in a word to a state of preparation directed to this purpose is—(who does not see it?) the perfectly unrestrained communication of ideas on every subject within the field of government; the communication, by vehicles of all sorts—by signs of all sorts; signs to the ear—signs to the eye—by spoken language—by written, including printed, language—by the liberty of the *tongue*, by the liberty of the writing *desk*, by the liberty of the *post office*—by the liberty of the *press*.

The characteristic then of *an undespotic* government—in a word, of every government that has any tenable claim to the appellation of a *good government is*, the allowing, and giving facility to, this communication, and this, not only for instruction, but for excitation—not only for instruction and excitation, but also for correspondence; and this again for the purpose of affording and keeping on foot every facility for eventual resistance—for resistance to government, and thence, should necessity require, for a change in government.

In all this there is nothing new; nothing that is new, either in theory or in practice. Look around you, my friends; you will see it in theory, and at the same time in corresponding practice. In the Anglo-American United States every body sees it is in practice. In that declaration of independence, which stands at the head of their constitutional code, any body may see it plainly and openly avowed. . . .

Now for the promised *test*, by which, when applied to a man, it may be seen whether the government he means to give his support to is of the one sort or of the other. Put to him this question: Will you, Sir, or will you not, concur in putting matters on such a footing, in respect to the liberty of the press, and the liberty of public discussion, that, at the hands of the persons exercising the powers of government, a man shall have no more fear from speaking and writing *against* them, than from speaking and writing *for* them? If his answer be *yes*, the government he declares in favour of, is an *undespotic* one; if his answer be *no*, the government he declares in favour of, is a *despotic* one. If yes, his principles as to this matter, are those of the Anglo-American United States, and, as you will see, if you have not seen already, those of the Spanish constitutional code; if no, they are those of ——, and of the Emperor of Morocco.

As to the evil which results from a censorship, it is impossible to measure it, because it is impossible to tell where it ends.

Prof. THOMAS COOPER: From "Liberty of The Press," 1830.

The liberty of the press is a phrase in everybody's mouth. It forms one of the commonplace panegyrics of what are called free governments.

It is one of the boasts of those who admire that nonentity, the British constitution. It is supposed to flourish particularly in these United States and to form a distinguishing feature of our American Governments. I hardly know in which of them to look for it.

I think there is no question within the whole range of human inquiry of equal importance to the present one. It is, whether the people should doom themselves to voluntary ignorance, to imperfect knowledge, and place themselves, bound and blind-fold, under the guidance of men who assume to govern them. They have been told by governments and by the priesthood, that the best way of arriving at truth is by hearing only one side of the question; and they have legislated and acted in conformity with this persuasion.

Of late, men begin to suspect that there is no satisfactory access to knowledge upon public questions, but by means of public discussion; and that no limit can be put to the right of discussion, by previous prohibition or by subsequent punishment, that can operate for the good of the people. They require light, and only light. They must judge and act unwisely, if they judge and act in the dark.

A strong suspicion now prevails that the human intellect has been kept in fetters, by men who have boldly assumed superior wisdom, that their dictates might pass without inquiry—men who professedly deal in concealment, darkness, and mystery, and who fatten upon human ignorance.

Those who are averse to have their own opinions examined, are manifestly actuated more by attachment to their own tenets than to truth. They arrogate to themselves a privilege which they deny to their neighbor; and they suggest the suspicious inquiry—Is there any concealed interest in the back ground that causes discussion to be dreaded and opposed?

The law, unfortunately, has always been retained on the side of power; laws have uniformly been enacted for the protection and perpetuation of power.

Every politician, every member of the clerical profession, ought to incur the reasonable suspicion of being an interested supporter of false doctrines, who becomes angry at opposition, and endeavors to cast an odium on free inquiry. Fraud and falsehood only dread examination. Truth invites it. Public discussion is the spear of Ithuriel; the fiend Imposture starts up trembling at its touch.

Speculative opinions are best left to fight out their own harmless battles by means of a free press. They are never dangerous to the community, but when the magistrate takes a side.

All such laws and decisions as cast a stigma of reproach or disability on any man for his opinions on theological or moral subjects, whatever they may be, are laws and decisions in favor of the alliance between

church and state; they operate for the encouragement and protection of legal falsehood and hypocrisy. They stigmatize conscientious veracity as among the worst of crimes, and punish it accordingly. They tacitly admit the temptation to utter preliminary falsehood, as the best possible test of the inclination to tell truth. They take for granted, that a disposition to speak the truth fearlessly and at all hazards, is a sure sign that the person in question is unworthy of all belief! And by the courtesy of the country, in many states, this is called Law. . . . Can we be made wiser by half information, or see more clearly in proportion as our field of vision is obstructed?

Indeed, no opinion or doctrine, of whatever nature it be, or whatever be its tendency, ought to be suppressed. For it is either manifestly true, or it is manifestly false, or its truth or falsehood is dubious. Its tendency is manifestly good, or manifestly bad, or it is dubious and concealed. There are no other assignable conditions, no other functions of the problem.

In the case of its being manifestly true, and of good tendency, there can be no dispute. Nor in the case of its being manifestly otherwise; for by the terms it can mislead nobody. If its truth or its tendency be dubious, it is clear that nothing can bring the good to light, or expose the evil, but full and free discussion. Until this takes place, a plausible fallacy may do harm; but discussion is sure to elicit the truth, and fix public opinion on a proper basis; and nothing else can do it.

Criminality can only be predicated where there is an obstinate, unreasonable refusal to consider any kind of evidence, but what exclusively supports one side of a question.

It follows that errors of the understanding must be treated by appeals to the understanding. That argument should be opposed by argument, and fact by fact. That fine and imprisonment are bad forms of syllogism, well calculated to irritate, but powerless for refutation. They may suppress truth, they can never elicit it.

A sound and healthy state of public feeling depends everywhere upon the healthy state of public information; and this can have no other basis but the freedom of public discussion. . . . Let us hear what can be said on all sides; and we will then decide.

If it be desirable to arrive at truth in our inquiries; if it be desirable to avoid error, we must admit every opinion and doctrine liable to doubt or dispute, to be examined on every side, and by all manner of persons who take an interest in the question. Some will bring more, some less talent and knowledge to bear upon it; some will present it to us under one aspect, some under another. At length, this untrammelled license of discussion will put us in possession of the means of deciding accurately, which we can acquire in no other way. In all matters of science, this truth is universally acknowledged, and this course is generally adopted.

If in scientific, why not in questions of every other kind?

Error not brought to view, but concealed; error operating not openly, but privately, may be dangerous; for it has no enemy to detect it, and nothing to fear. Publish it, oppose it, discuss it, and the vapor is dissipated before the beams of truth.

The public interest requires that every difficult question should be patiently and deliberately examined on all sides; under every view in which it presents itself; that no light should be excluded; but evidence and argument of every kind, should have their full bearing. It is thus that the doubtful truths of one generation become the axioms of the next; and that the painful results of laborious investigation and deep thinking gradually descend from the closets of the learned, and pervade the mass of the community for the common improvement of mankind.

It is a settled point, that we are not to argue against the use of a thing from the possibility of its being abused; for to what good thing will not this objection apply? . . . The argument against the expediency of divulging an opinion, although it be true, from the possibility of its being perverted, has been so much hackneyed, and has served so often as the last resort of confuted abettors of political and ecclesiastical tyranny, in particular, that every man's literature, who has attended to the history of any important opinion, ethical, theological, or political, rejects it, as the mark of a bad cause—as the last refuge of refuted error.

If I were asked what opinion, from the commencement of history to the present day, has been productive of the most injury to mankind, I should answer without hesitation, *the inexpediency of publishing sentiments of supposed bad tendency.* It is this opinion, principally, that has filled Europe with bloodshed, almost unremittingly, for seventeen centuries; for it is this opinion that has induced the tyrannical interference of the civil power, not only in political discussions, but in questions of mere theoretical controversy; and punished men, without number, for supposed mistakes in matters of opinion, whose lives and manners were innocent and irreproachable—as if opinions might be adopted or rejected at pleasure, and any deviation from the prescribed standard was a crime.

It is better for the public to take the risk of the evils, and for individuals to suffer the inconvenience resulting from a press without other restraints than those which are consequent on the obligations of good motive and justifiable end, than for the state to incur the danger resulting from any uncertainty in the tenure of the liberty, which, as it declares, is "essential to the security of its freedom."

One man cheerfully goes to prison for his opinions; another receives a thousand pounds for teaching the opposite opinions. Which of the two would be deemed the better evidence in a court of justice?

The general pretence, whenever it could be set up, in cases of blasphemy,

was the vulgarity and insolence of the offenders, forgetting the zealous Protestants abuse of the Jews, and their polite denunciations of the great Scarlet Whore, that sitteth on seven hills, playing the harlot, and making the people drunk with her abominations. They appear not to be aware that hard and harsh language against what is deemed to be imposture and hypocrisy, is not only their own language, but is in fact countenanced by 23 of Matthew and 23 of Acts. They forgot that it is unjust to expect the mild language of a well educated gentlemen from those who have been accustomed to vulgar society; and who express what they deem honest feelings, in the terms they have unfortunately been accustomed to hear and to use. They forgot that there is no known or precise law for indicting mere coarseness of language.

JOHN STUART MILL: From "An Essay on Liberty," 1859.

THE TIME, it is to be hoped, is gone by when any defence would be necessary of the "liberty of the press" as one of the securities against corrupt or tyrannical government. No argument, we may suppose, can now be needed, against permitting a legislature or an executive, not identified in interest with the people, to prescribe opinions to them, and determine what doctrines or what arguments they shall be allowed to hear. This aspect of the question, besides, has been so often and so triumphantly enforced by preceding writers, that it needs not be specially insisted on in this place. Though the law of England on the subject of the press, is as servile to this day as it was in the time of the Tudors, there is little danger of its being actually put in force against political discussion, except during some temporary panic, when fear of insurrection drives ministers and judges from their propriety;* and, speaking generally, it is not, in constitutional countries, to be apprehended that

*These words had scarcely been written, when, as if to give them an emphatic contradiction, occurred the Government Press Prosecutions of 1858. That ill-judged interference with the liberty of public discussion has not, however, induced me to alter a single word in the text, nor has it at all weakened my conviction that, moments of panic exepted, the era of pains and penalties for political discussion has, in our own country, passed away. For, in the first place, the prosecutions were not persisted in; and, in the second, they were never, properly speaking, political prosecutions. The offence charged was not that of criticising institutions, or the acts or persons of rulers, but of circulating what was deemed an immoral doctrine, the lawfulness of Tyrannicide.

If the arguments of the present chapter are of any validity, there ought to exist the fullest liberty of professing and discussing, as a matter of ethical conviction, any doctrine, however immoral it may be considered. It would, therefore, be irrelevant and out of place to examine here whether the doctrine of Tyrannicide deserves that title. I shall content myself with saying that the subject has been at all times one of the open questions of morals; that the act of a private citizen in striking down a criminal, who, by raising himself above the law, has placed himself beyond the reach of legal punishment or control, has been accounted by whole nations, and by some of the best and wisest of men, not a crime, but an act of exalted virtue; and that, right or wrong, it is not of the nature of assassination, but of civil war. As such, I hold that the instigation to it, in a specific case, may be a proper subject of punishment, but only if an overt act has followed, and at least a probable connection can be established between the act and the instigation. Even then, it is not a foreign government, but the very government assailed, which alone, in the exercise of self-defence, can legitimately punish attacks directed against its own existence.

the government, whether completely responsible to the people or not, will often attempt to control the expression of opinion, except when in doing so it makes itself the organ of the general intolerance of the public.* Let us suppose, therefore, that the government is entirely at one with the people, and never thinks of exerting any power of coercion unless in agreement with what it conceives to be their voice. But I deny the right of the people to exercise such coercion, either by themselves or by their government. The power itself is illegitimate. The best government has no more title to it than the worst. It is as noxious, or more noxious, when exerted in accordance with public opinion, than when in opposition to it. If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind. Were an opinion a personal possession of no value except to the owner; if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted on only a few persons or on many. But the peculiar evil of silencing the expression of an opinion is, that it is robbing the human race, posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth: if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error.

It is necessary to consider separately these two hypotheses, each of which has a distinct branch of the argument corresponding to it. We can never be sure that the opinion we are endeavoring to stifle is a false opinion; and if we were sure, stifling it would be an evil still.

First: The opinion which it is attempted to suppress by authority may possibly be true. Those who desire to suppress it, of course deny its truth; but they are not infallible. They have no authority to decide the question for all mankind, and exclude every other person from the means of judging. To refuse a hearing to an opinion, because they are sure that it is false, is to assume that *their* certainty is the same thing as *absolute* certainty. All silencing of discussion is an assumption of infallibility. Its condemnation may be allowed to rest on this common argument, not the worse for being common.

Unfortunately for the good sense of mankind, the fact of their fallibility is far from carrying the weight in their practical judgment which is always allowed to it in theory; for, while every one well knows himself

*[The general intolerance manifested itself soon after Mr. Mill had written. Statues came into existence all over the United States, proscribing all sorts of literature, including medical books, dealing with the subject of sex. Later came also those laws which in some American States make it a crime to express the belief that government, through their wars and tyrannies, do more harm than good. With this came also immigration laws which deny foreigners admission into the United States if they entertain certain unpopular opinions.]

to be fallible, few think it necessary to take any precautions against their own fallibility, or admit the supposition that any opinion, of which they feel very certain, may be one of the examples of the error to which they acknowledge themselves to be liable. Absolute princes, or others who are accustomed to unlimited deference, usually feel this complete confidence in their own opinions on nearly all subjects. People more happily situated, who sometimes hear their opinions disputed, and are not wholly unused to be set right when they are wrong, place the same unbounded reliance only on such of their opinions as are shared by all who surround them, or to whom they habitually defer; for in proportion to a man's want of confidence in his own solitary judgment, does he usually repose with implicit trust on the infallibility of "the world" in general. And the world, to each individual, means the part of it with which he comes in contact—his party, his sect, his church, his class of society; the man may be called, by comparison, almost liberal and large minded to whom it means anything so comprehensive as his own country or his own age. Nor is his faith in this collective authority at all shaken by his being aware that other ages, countries, sects, churches, classes, and parties have thought, and even now think, the exact reverse. He devolves upon his own world the responsibility of being in the right against the dissentient worlds of other people; and it never troubles him that mere accident has decided which of these numerous worlds is the object of his reliance, and that the same causes which make him a Churchman in London, would have made him a Buddhist or a Confucian in Pekin. Yet it is as evident in itself, as any amount of argument can make it, that ages are no more infallible than individuals; every age having held many opinions which subsequent ages have deemed not only false but absurd; and it is as certain that many opinions, now general, will be rejected by future ages, as it is that many, once general, are rejected by the present.

The objection likely to be made to this argument, would probably take some such form as the following: There is no greater assumption of infallibility in forbidding the propagation of error than in any other thing which is done by public authority on its own judgment and responsibility. Judgment is given to men that they may use it. Because it may be used erroneously, are men to be told that they ought not to use it at all? To prohibit what they think pernicious, is not claiming exemption from error, but fulfilling the duty incumbent on them, although fallible, of acting on their conscientious conviction. If we were never to act on our opinions, because those opinions may be wrong, we should leave all our interests uncared for, and all our duties unperformed. An objection which applies to all conduct, can be no valid objection to any conduct in particular. It is the duty of governments, and of individuals, to form the truest opinions they can; to form them carefully,

and never impose them upon others unless they are quite sure of being right. But when they are sure (such reasoners may say), it is not conscientiousness but cowardice to shrink from acting on their opinions, and allow doctrines which they honestly think dangerous to the welfare of mankind, either in this life or in another, to be scattered abroad without restraint, because other people, in less enlightened times, have persecuted opinions now believed to be true. Let us take care, it may be said, not to make the same mistake; but governments and nations have made mistakes in other things which are not denied to be fit subjects for the exercise of authority; they have laid on bad taxes, made unjust wars. Ought we therefore to lay on no taxes, and, under whatever provocation, make no wars? Men, and governments, must act to the best of their ability. There is no such thing as absolute certainty, but there is assurance sufficient for the purposes of human life. We may, and must, assume our opinion to be true for the guidance of our own conduct; and it is assuming no more when we forbid bad men to pervert society by the propagation of opinions which we regard as false and pernicious.

I answer, that it is assuming very much more. There is the greatest difference between presuming an opinion to be true, because, with every opportunity for contesting it, it has not been refuted, and assuming its truth for the purpose of not permitting its refutation. Complete liberty of contradicting and disproving our opinion is the very condition which justifies us in assuming its truth for purposes of action; and on no other terms can a being with human faculties have any rational assurance of being right.

When we consider either the history of opinion, or the ordinary conduct of human life, to what is it to be ascribed that the one and the other are no worse than they are? Not, certainly, to the inherent force of the human understanding; for, on any matter not self-evident, there are ninety-nine persons totally incapable of judging of it, for one who is capable; and the capacity of the hundredth person is only comparative; for the majority of the eminent men of every past generation held many opinions now known to be erroneous, and did or approved numerous things which no one will now justify. Why is it, then, that there is on the whole a preponderance among mankind of rational opinions and rational conduct? If there really is this preponderance—which there must be unless human affairs are, and have always been, in an almost desperate state—it is owing to a quality of the human mind, the source of everything respectable in man either as an intellectual or as a moral being, namely, that his errors are corrigible. He is capable of rectifying his mistakes, by discussion and experience. Not by experience alone. There must be discussion, to show how experience is to be interpreted. Wrong opinions and practices gradually yield to fact and argument;

but facts and arguments, to produce any effect on the mind, must be brought before it. Very few facts are able to tell their own story, without comments to bring out their meaning. The whole strength and value, then, of human judgment, depending on the one property, that it can be set right when it is wrong, reliance can be placed on it only when the means of setting it right are kept constantly at hand. In the case of any person whose judgment is really deserving of confidence, how has it become so? Because he has kept his mind open to criticism of his opinions and conduct. Because it has been his practice to listen to all that could be said against him; to profit by as much of it as was just, and expound to himself, and upon occasion to others, the fallacy of what was fallacious. Because he has felt that the only way in which a human being can make some approach to knowing the whole of a subject, is by hearing what can be said about it by persons of every variety of opinion, and studying all modes in which it can be looked at by every character of mind. No wise man ever acquired his wisdom in any mode but this; nor is it in the nature of human intellect to become wise in any other manner. The steady habit of correcting and completing his own opinion by collating it with those of others, so far from causing doubt and hesitation in carrying it into practice, is the only stable foundation for a just reliance on it; for, being cognizant of all that can, at least obviously, be said against him, and having taken up his position against all gainsayers—knowing that he has sought for objections and difficulties, instead of avoiding them, and has shut out no light which can be thrown upon the subject from any quarter—he has a right to think his judgment better than that of any person, and any multitude, who have not gone through a similar process.

It is not too much to require that what the wisest of mankind, those who are best entitled to trust their own judgment, find necessary to warrant their relying on it, should be submitted to by that miscellaneous collection of a few wise and many foolish individuals called the public. The most intolerant of churches, the Roman Catholic Church, even at the canonization of a saint, admits, and listens patiently to, a "devil's advocate." The holiest of men, it appears, cannot be admitted to posthumous honors, until all that the devil could say against him is known and weighed. If even the Newtonian philosophy were not permitted to be questioned, mankind could not feel as complete assurance of its truth as they now do. The beliefs which we have most warrant for, have no safeguard to rest on but a standing invitation to the whole world to prove them unfounded. If the challenge is not accepted, or is accepted and the attempt fails, we are far enough from certainty still; but we have done the best that the existing state of human reason admits of; we have neglected nothing that could give the truth a chance of reaching us; if the lists are kept open, we may hope that if there be

a better truth, it will be found when the human mind is capable of receiving it; and in the mean time we may rely on having attained such approach to truth as is possible in our own day. This is the amount of certainty attainable by a fallible being, and this the sole way of attaining it.

Strange it is, that men should admit the validity of the arguments for free discussion, but object to their being "pushed to an extreme"; not seeing that unless the reasons are good for an extreme case, they are not good for any case. Strange that they should imagine that they are not assuming infallibility, when they acknowledge that there should be free discussion on all subjects which can possibly be *doubtful*, but think that some particular principle or doctrine should be forbidden to be questioned because it is so *certain*; that is, because *they* are certain that it is certain. To call any proposition certain, while there is any one who would deny its certainty if permitted, but who is not permitted, is to assume that we ourselves, and those who agree with us, are the judges of certainty, and judges without hearing the other side.

In the present age—which has been described as "destitute of faith, but terrified at scepticism"—in which people feel sure, not so much that their opinions are true, as that they should not know what to do without them—the claims of an opinion to be protected from public attack are rested not so much on its truth as on its importance to society. There are, it is alleged, certain beliefs, so useful, not to say indispensable to well-being, that it is as much the duty of governments to uphold those beliefs as to protect any other of the interests of society. In a case of such necessity, and so directly in the line of their duty, something less than infallibility may, it is maintained, warrant, and even bind, governments to act on their own opinion, confirmed by the general opinion of mankind. It is also often argued, and still oftener thought, that none but bad men would desire to weaken these salutary beliefs; and there can be nothing wrong, it is thought, in restraining bad men, and prohibiting what only such men would wish to practise. This mode of thinking makes the justification of restraints on discussion not a question of the truth of doctrines, but of their usefulness; and flatters itself by that means to escape the responsibility of claiming to be an infallible judge of opinions. But those who thus satisfy themselves, do not perceive that the assumption of infallibility is merely shifted from one point to another. The usefulness of an opinion is itself matter of opinion; as disputable, as open to discussion, and requiring discussion as much, as the opinion itself. There is the same need of an infallible judge of opinions to decide an opinion to be noxious, as to decide it to be false, unless the opinion condemned has full opportunity of defending itself. And it will not do to say that the heretic may be allowed to maintain the utility or harmlessness of his opinion, though forbidden to maintain its truth. The truth of an opinion is part of its utility. If we would know whether or

not it is desirable that a proposition should be believed, is it possible to exclude the consideration of whether or not it is true? In the opinion, not of bad men, but of the best men, no belief which is contrary to truth can be really useful; and can you prevent such men from urging that plea, when they are charged with culpability for denying some doctrine which they are told is useful, but which they believe to be false? Those who are on the side of received opinions, never fail to take all possible advantage of this plea; you do not find *them* handling the question of utility as if it could be completely abstracted from that of truth—on the contrary, it is, above all, because their doctrine is "the truth," that the knowledge or the belief of it is held to be so indispensable. There can be no fair discussion of the question of usefulness, when an argument so vital may be employed on one side, but not on the other. And in point of fact, when law and public feeling do not permit the truth of an opinion to be disputed, they are just as little tolerant of a denial of its usefulness. The utmost they allow is an extenuation of its absolute necessity, or of the positive guilt of rejecting it.

In order more fully to illustrate the mischief of denying a hearing to opinions because we, in our own judgment, have condemned them, it will be desirable to fix down the discussion to a concrete case; and I choose, by preference, the cases which are least favorable to me—in which the argument against freedom of opinion, both on the score of truth and on that of utility, is considered the strongest. Let the opinions impugned be the belief in a God and in a future state, or any of the commonly received doctrines of morality. To fight the battle on such ground, gives a great advantage to an unfair antagonist; since he will be sure to say (and many who have no desire to be unfair will say it internally), Are these the doctrines which you do not deem sufficiently certain to be taken under the protection of law? Is the belief in a God one of the opinions, to feel sure of which you hold to be assuming infallibility? But I must be permitted to observe, that it is not the feeling sure of a doctrine (be it what it may) which I call an assumption of infallibility. It is the undertaking to decide that question *for others*, without allowing them to hear what can be said on the contrary side. And I denounce and reprobate this pretension not the less, if put forth on the side of my most solemn convictions. However positive any one's persuasion may be, not only of the falsity but of the pernicious consequences—not only of the pernicious consequences, but (to adopt expressions which I altogether condemn) the immorality and impiety of an opinion; yet if, in pursuance of that private judgment, though backed by the public judgment of his country or his contemporaries, he prevents the opinion from being heard in its defence, he assumes infallibility. And so far from the assumption being less objectionable or less dangerous because the opinion is called immoral or impious, this is the case of all others in which it is

most fatal. These are exactly the occasions on which the men of one generation commit those dreadful mistakes, which excite the astonishment and horror of posterity. It is among such that we find the instances memorable in history, when the arm of the law has been employed to root out the best men and the noblest doctrines; with deplorable success as to the men, though some of the doctrines have survived to be (as if in mockery), invoked in defence of similar conduct towards those who dissent from *them*, or from their received interpretation.

Mankind can hardly be too often reminded, that there was once a man named Socrates, between whom and the legal authorities and public opinion of his time, there took place a memorable collision. Born in an age and country abounding in individual greatness, this man has been handed down to us by those who best knew both him and the age, as the most virtuous man in it; while *we* know him as the head and prototype of all subsequent teachers of virtue, the source equally of the lofty inspiration of Plato and the judicious utilitarianism of Aristotle,' '*i maëstri di color che sanno*,'' the two headsprings of ethical as of all other philosophy. This acknowledged master of all the eminent thinkers who have since lived—whose fame, still growing after more than two thousand years, all but outweighs the whole remainder of the names which make his native city illustrious—was put to death by his countrymen, after a judicial conviction, for impiety and immorality. Impiety, in denying the gods recognized by the State; indeed his accuser asserted (see the "Apologia") that he believed in no gods at all. Immorality, in being, by his doctrines and instructions, a "corrupter of youth." Of these charges the tribunal, there is every ground for believing, honestly found him guilty, and condemned the man who probably of all then born had deserved best of mankind, to be put to death as a criminal.

To pass from this to the only other instance of judicial iniquity, the mention of which, after the condemnation of Socrates, would not be an anti-climax—the event which took place on Calvary rather more than eighteen hundred years ago. The man who left on the memory of those who witnessed his life and conversation, such an impression of his moral grandeur, that eighteen subsequent centuries have done homage to him as the Almighty in person, was ignominiously put to death, as what? As a blasphemer. Men did not merely mistake their benefactor; they mistook him for the exact contrary of what he was, and treated him as that prodigy of impiety, which they themselves are now held to be, for their treatment of him. The feelings with which mankind now regard these lamentable transactions, especially the later of the two, render them extremely unjust in their judgment of the unhappy actors. These were, to all appearance, not bad men—not worse than men commonly are, but rather the contrary; men who possessed in a full, or somewhat more than a full measure, the religious, moral, and patriotic feelings of

their time and people; the very kind of men who, in all times, our own included, have every chance of passing through life blameless and respected. The high-priest who rent his garments when the words were pronounced, which, according to all the ideas of his country, constituted the blackest guilt, was in all probability quite as sincere in his horror and indignation, as the generality of respectable and pious men now are in the religious and moral sentiments they profess; and most of those who now shudder at his conduct, if they had lived in his time, and been born Jews, would have acted precisely as he did. Orthodox Christians who are tempted to think that those who stoned to death the first martyrs must have been worse men than they themselves are, ought to remember that one of those persecutors was Saint Paul.

Let us add one more example, the most striking of all, if the impressiveness of an error is measured by the wisdom and virtue of him who falls into it. If ever any one, possessed of power, had grounds for thinking himself the best and most enlightened among his contemporaries, it was the Emperor Marcus Aurelius. Absolute monarch of the whole civilized world, he preserved through life not only the most unblemished justice, but what was less to be expected from his Stoical breeding, the tenderest heart. The few failings which are attributed to him, were all on the side of indulgence; while his writings, the highest ethical product of the ancient mind, differ scarcely perceptibly, if they differ at all, from the most characteristic teachings of Christ. This man, a better Christian in all but the dogmatic sense of the word, than almost any of the ostensibly Christian sovereigns who have since reigned, persecuted Christianity. Placed at the summit of all the previous attainments of humanity, with an open, unfettered intellect, and a character which led him of himself to embody in his moral writings the Christian ideal, he yet failed to see that Christianity was to be a good and not an evil to the world, with his duties to which he was so deeply penetrated. Existing society he knew to be in a deplorable state. But such as it was, he saw, or thought he saw, that it was held together, and prevented from being worse, by belief and reverence of the received divinities. As a ruler of mankind, he deemed it his duty not to suffer society to fall in pieces; and saw not how, if its existing ties were removed, any others could be formed which could again knit it together. The new religion openly aimed at dissolving these ties; unless, therefore, it was his duty to adopt that religion, it seemed to be his duty to put it down. Inasmuch then as the theology of Christianity did not appear to him true or of divine origin; inasmuch as this strange history of a crucified God was not credible to him, and a system which purported to rest entirely upon a foundation to him so wholly unbelievable could not be foreseen by him to be that renovating agency which, after all abatements, it has in fact proved to be—the gentlest and most amiable of philosophers and rulers,

under a solemn sense of duty, authorized the persecution of Christianity. To my mind, this is one of the most tragical facts in all history. It is a bitter thought, how different a thing the Christianity of the world might have been, if the Christian faith had been adopted as the religion of the empire under the auspices of Marcus Aurelius instead of those of Constantine. But it would be equally unjust to him and false to truth, to deny, that no one plea which can be urged for punishing anti-Christian teaching, was wanting to Marcus Aurelius for punishing, as he did, the propagation of Christianity. No Christian more firmly believes that Atheism is false, and tends to the dissolution of society, than Marcus Aurelius believed the same things of Christianity; he who, of all men then living, might have been thought the most capable of appreciating it. Unless any one who approves of punishment for the promulgation of opinions, flatters himself that he is a wiser and better man than Marcus Aurelius—more deeply versed in the wisdom of his time, more elevated in his intellect above it—more earnest in his search for truth, or more single-minded in his devotion to it when found, let him abstain from that assumption of the joint infallibility of himself and the multitude, which the great Antoninus made with so unfortunate a result.

Aware of the impossibility of defending the use of punishment for restraining irreligious opinions, by any argument which will not justify Marcus Antoninus, the enemies of religious freedom, when hard pressed, occasionally accept this consequence, and say, with Dr. Johnson, that the persecutors of Christianity were in the right; that persecution is an ordeal through which truth ought to pass, and always passes successfully, legal penalties being, in the end, powerless against truth, though sometimes beneficially effective against mischievous errors. This is a form of the argument for religious intolerance, sufficiently remarkable not to be passed without notice.

A theory which maintains that truth may justifiably be persecuted because persecution cannot possibly do it any harm, cannot be charged with being intentionally hostile to the reception of new truths; but we cannot commend the generosity of its dealing with the persons to whom mankind are indebted for them. To discover to the world something which deeply concerns it, and of which it was previously ignorant; to prove to it that it had been mistaken on some vital point of temporal or spiritual interest, is as important a service as a human being can render to his fellow-creatures, and in certain cases, as in those of the early Christians and of the Reformers, those who think with Dr. Johnson believe it to have been the most precious gift which could be bestowed on mankind. That the authors of such splendid benefits should be requited by martyrdom; that their reward should be to be dealt with as the vilest of criminals, is not, upon this theory, a deplorable error and misfortune, for which humanity should mourn in sackcloth and ashes, but the nor-

mal and justifiable state of things. The propounder of a new truth, according to this doctrine, should stand, as stood, in the legislation of the Locrians, the proposer of a new law, with a halter round his neck, to be instantly tightened if the public assembly did not, on hearing his reasons, then and there adopt his proposition. People who defend this mode of treating benefactors cannot be supposed to set much value on the benefit; and I believe this view of the subject is mostly confined to the sort of persons who think that new truths may have been desirable once, but that we have had enough of them now.

But, indeed, the dictum that truth always triumphs over persecution, is one of those pleasant falsehoods which men repeat after one another till they pass into commonplaces, but which all experience refutes. History teems with instances of truth put down by persecution. If not suppressed forever, it may be thrown back for centuries. To speak only of religious opinions: The Reformation broke out at least twenty times before Luther, and was put down. Arnold of Brescia was put down. Fra Dolcino was put down. Savonarola was put down. The Albigeois were put down. The Vaudois were put down. The Lollards were put down. The Hussites were put down. Even after the era of Luther, wherever persecution was persisted in, it was successful. In Spain, Italy, Flanders, the Austrian empire, Protestantism was rooted out; and, most likely, would have been so in England, had Queen Mary lived, or Queen Elizabeth died. Persecution has always succeeded, save where the heretics were too strong a party to be effectually persecuted. No reasonable person can doubt that Christianity might have been extirpated in the Roman Empire. It spread, and became predominant, because the persecutions were only occasional, lasting but a short time, and separated by long intervals of almost undisturbed propagandism. It is a piece of idle sentimentality that truth, merely as truth, has any inherent power denied to error, of prevailing against the dungeon and the stake. Men are not more zealous for truth than they often are for error, and a sufficient application of legal or even of social penalties will generally succeed in stopping the propagation of either. The real advantage which truth has consists in this, that when an opinion is true, it may be extinguished once, twice, or many times, but in the course of ages there will generally be found persons to rediscover it, until some one of its reappearances falls on a time when from favorable circumstances it escapes persecution until it has made such head as to withstand all subsequent attempts to suppress it.

It will be said, that we do not now put to death the introducers of new opinions—we are not like our fathers who slew the prophets; we even build sepulchres to them. It is true we no longer put heretics to death; and the amount of penal infliction which modern feeling probably would tolerate, even against the most obnoxious opinions, is not sufficient to

extirpate them. But let us not flatter ourselves that we are yet free from the stain even of legal persecution. Penalties for opinion, or at least for its expression, still exist by law; and their enforcement is not, even in these times, so unexampled as to make it at all incredible that they may some day be revived in full force. In the year 1857, at the summer assizes of the county of Cornwall, an unfortunate man said to be of unexceptionable conduct in all relations of life, was sentenced to twenty-one months' imprisonment for uttering, and writing on a gate, some offensive words concerning Christianity. Within a month of the same time, at the Old Bailey, two persons, on two separate occasions, were rejected as jurymen, and one of them grossly insulted by the judge and by one of the counsel, because they honestly declared that they had no theological belief; and a third, a foreigner, for the same reason, was denied justice against a thief. This refusal of redress took place in virtue of the legal doctrine that no person can be allowed to give evidence in a court of justice, who does not profess belief in a God (any god is sufficient) and in a future state; which is equivalent to declaring such persons to be outlaws, excluded from the protection of the tribunals; who may not only be robbed or assaulted with impunity, if no one but themselves, or persons of similar opinions, be present, but any one else may be robbed or assaulted with impunity if the proof of the fact depends on their evidence. The assumption on which this is grounded, is that the oath is worthless of a person who does not believe in a future state; a proposition which betokens much ignorance of history in those who assent to it (since it is historically true that a large proportion of infidels in all ages have been persons of distinguished integrity and honor); and would be maintained by no one who had the smallest conception how many of the persons in greatest repute with the world, both for virtues and attainments, are well known, at least to their intimates, to be unbelievers. The rule, besides, is suicidal, and cuts away its own foundation. Under pretence that atheists must be liars, it admits the testimony of all atheists who are willing to lie, and rejects only those who brave the obloquy of publicly confessing a detested creed rather than affirm a falsehood. A rule thus self-convicted of absurdity so far as regards its professed purpose, can be kept in force only as a badge of hatred, a relic of persecution; a persecution, too, having the peculiarity that the qualification for undergoing it is the being clearly proved not to deserve it. The rule, and the theory it implies, are hardly less insulting to believers than to infidels. For if he who does not believe in a future state necessarily lies, it follows that they who do believe are prevented from lying, if prevented they are, only by the fear of hell. We will not do the authors and abettors of the rule the injury of supposing that the conception which they have formed of Christian virtue is drawn from their own consciousness.

These, indeed, are but rags and remnants of persecution, and may be thought to be not so much an indication of the wish to persecute, as an example of that very frequent infirmity of English minds, which makes them take a preposterous pleasure in the assertion of a bad principle, when they are no longer bad enough to desire to carry it really into practice. But, unhappily, there is no security in the state of the public mind that the suspension of worse forms of legal persecution, which has lasted for about the space of a generation, will continue. In this age the quiet surface of routine is as often ruffled by attempts to resuscitate past evils, as to introduce new benefits. What is boasted of at the present time as the revival of religion, is always, in narrow and uncultivated minds, at least as much the revival of bigotry; and where there is the strong permanent leaven of intolerance in the feelings of a people, which at all times abides in the middle classes of this country, it needs but little to provoke them into actively persecuting those whom they have never ceased to think proper objects of persecution. For it is this—it is the opinions men entertain, and the feelings they cherish, respecting those who disown the beliefs they deem important, which makes this country not a place of mental freedom. For a long time past, the chief mischief of the legal penalties is that they strengthen the social stigma. It is that stigma which is really effective, and so effective is it, that the profession of opinions which are under the ban of society is much less common in England, than is, in many other countries, the avowal of those which incur risk of judicial punishment. In respect to all persons but those whose pecuniary circumstances make them independent of the good will of other people, opinion, on this subject, is as efficacious as law; men might as well be imprisoned, as excluded from the means of earning their bread. Those whose bread is already secured, and who desire no favors from men in power, or from bodies of men, or from the public, have nothing to fear from the open avowal of any opinions, but to be ill-thought of and ill-spoken of, and this it ought not to require a very heroic mould to enable them to bear. There is no room for any appeal *ad misericordiam* in behalf of such persons. But though we do not now inflict so much evil on those who think differently from us as it was formerly our custom to do, it may be that we do ourselves as much evil as ever by our treatment of them. Socrates was put to death, but the Socratic philosophy rose like the sun in heaven, and spread its illumination over the whole intellectual firmament. Christians were cast to the lions, but the Christian church grew up a stately and spreading tree, overtopping the older and less vigorous growths, and stifling them by its shade. Our merely social intolerance kills no one, roots out no opinions, but induces men to disguise them or to abstain from any active effort for their diffusion. With us, heretical opinions do not perceptibly gain, or even lose, ground in each decade or generation: they never blaze

out far and wide, but continue to smoulder in the narrow circles of thinking and studious persons among whom they originate, without ever lighting up the general affairs of mankind with either a true or a deceptive light. And thus is kept up a state of things very satisfactory to some minds, because, without the unpleasant process of fining or imprisoning anybody, it maintains all prevailing opinions outwardly undisturbed, while it does not absolutely interdict the exercise of reason by dissentients afflicted with the malady of thought. A convenient plan for having peace in the intellectual world, and keeping all things going on therein very much as they do already. But the price paid for this sort of intellectual pacification is the sacrifice of the entire moral courage of the human mind. A state of things in which a large portion of the most active and inquiring intellects find it advisable to keep the general principles and grounds of their convictions within their own breasts, and attempt, in what they address to the public, to fit as much as they can of their own conclusions to premises which they have internally renounced, cannot send forth the open, fearless characters, and logical, consistent intellects who once adorned the thinking world. The sort of men who can be looked for under it, are either mere conformers to commonplace, or time-servers for truth, whose arguments on all great subjects are meant for their hearers, and are not those which have convinced themselves. Those who avoid this alternative, do so by narrowing their thoughts and interest to things which can be spoken of without venturing within the region of principles, that is, to small practical matters, which would come right of themselves, if but the minds of mankind were strengthened and enlarged, and which will never be made effectually right until then; while that which would strengthen and enlarge men's minds, free and daring speculation on the highest subjects, is abandoned.

Those in whose eyes this reticence on the part of heretics is no evil, should consider in the first place, that in consequence of it there is never any fair and thorough discussion of heretical opinions; and that such of them as could not stand such a discussion, though they may be prevented from spreading, do not disappear. But it is not the minds of heretics that are deteriorated most, by the ban placed on all inquiry which does not end in the orthodox conclusions. The greatest harm done is to those who are not heretics, and whose whole mental development is cramped, and their reason cowed, by the fear of heresy. Who can compute what the world loses in the multitude of promising intellects combined with timid characters, who dare not follow out any bold, vigorous, independent train of thought, lest it should land them in something which would admit of being considered irreligious or immoral? Among them we may occasionally see some man of deep conscientiousness, and subtle and refined understanding, who spends a life in sophisticating with an intellect which he cannot silence, and exhausts the re-

sources of ingenuity in attempting to reconcile the promptings of his conscience and reason with orthodoxy, which yet he does not, perhaps, to the end succeed in doing. No one can be a great thinker who does not recognize that as a thinker it is his first duty to follow his intellect to whatever conclusions it may lead. Truth gains more even by the errors of one who, with due study and preparation, thinks for himself, than by the true opinions of those who hold them only because they do not suffer themselves to think. Not that it is solely, or chiefly, to form great thinkers, that freedom of thinking is required. On the contrary, it is as much and even more indispensable to enable average human beings to attain the mental stature which they are capable of. There have been, and may again be, great individual thinkers in a general atmosphere of mental slavery. But there never has been, nor ever will be, in that atmosphere, an intellectually active people. Where any people has made a temporary approach to such a character, it has been because the dread of heterodox speculation was for a time suspended. Where there is a tacit convention that principles are not to be disputed; where the discussion of the greatest questions which can occupy humanity is considered to be closed, we cannot hope to find that generally high scale of mental activity which has made some periods of history so remarkable. Never when controversy avoided the subjects which are large and important enough to kindle enthusiasm, was the mind of a people stirred up from its foundations, and the impulse given which raised even persons of the most ordinary intellect to something of the dignity of thinking beings. Of such we have had an example in the condition of Europe during the times immediately following the Reformation; another, though limited to the Continent and to a more cultivated class, in the speculative movement of the latter half of the eighteenth century; and a third, of still briefer duration, in the intellectual fermentation of Germany during the Goethean and Fichtean period. These periods differed widely in the particular opinions which they developed; but were alike in this, that during all three the yoke of authority was broken. In each an old mental despotism had been thrown off, and no new one had yet taken its place. The impulse given at these three periods has made Europe what it now is. Every single improvement which has taken place either in the human mind or in institutions, may be traced distinctly to one or other of them. Appearances have for some time indicated that all three impulses are well nigh spent; and we can expect no fresh start, until we again assert our mental freedom.

Let us now pass to the second division of the argument, and, dismissing the supposition that any of the received opinions may be false, let us assume them to be true, and examine into the worth of the manner in which they are likely to be held, when their truth is not freely and openly canvassed. However unwillingly a person who has a strong opinion

may admit the possibility that his opinion may be false, he ought to be moved by the consideration that however true it may be, if it is not fully, frequently, and fearlessly discussed, it will be held as a dead dogma, not a living truth.

There is a class of persons (happily not quite so numerous as formerly) who think it enough if a person assents undoubtingly to what they think true, though he has no knowledge whatever of the grounds of the opinion, and could not make a tenable defence of it against the most superficial objections. Such persons, if they can once get their creed taught from authority, naturally think that no good, and some harm, comes of its being allowed to be questioned. Where their influence prevails, they make it nearly impossible for the received opinion to be rejected wisely and considerately, though it may still be rejected rashly and ignorantly; for to shut out discussion entirely is seldom possible, and when it once gets in, beliefs not grounded on conviction are apt to give way before the slightest semblance of an argument. Waiving, however, this possibility—assuming that the true opinion abides in the mind, but abides as a prejudice, a belief independent of, and proof against, argument—this is not the way in which truth ought to be held by a rational being. This is not knowing the truth. Truth, thus held, is but one superstition the more, accidentally clinging to the words which enunciate a truth.

If the intellect and judgment of mankind ought to be cultivated, a thing which Protestants at least do not deny, on what can these faculties be more appropriately exercised by any one, than on the things which concern him so much that it is considered necessary for him to hold opinions on them? If the cultivation of the understanding consists in one thing more than in another, it is surely in learning the grounds of one's own opinions.

Whatever people believe, on subjects on which it is of the first importance to believe rightly, they ought to be able to defend against at least the common objections. But, some one may say, "Let them be *taught* the grounds of their opinions. It does not follow that opinions must be merely parroted because they are never heard controverted. Persons who learn geometry do not simply commit the theorems to memory, but understand and learn likewise the demonstrations; and it would be absurd to say that they remain ignorant of the grounds of geometrical truths, because they never hear any one deny, and attempt to disprove them." Undoubtedly; and such teaching suffices on a subject like mathematics, where there is nothing at all to be said on the wrong side of the question. The peculiarity of the evidence of mathematical truths is, that all the argument is on one side. There are no objections, and no answers to objections. But on every subject on which difference of opinion is possible, the truth depends on a balance to be struck between two sets of conflicting reasons. Even in natural philosophy, there is

always some other explanation possible of the same facts; some geocentric theory instead of heliocentric, some phlogiston instead of oxygen; and it has to be shown why that other theory cannot be the true one; and until this is shown, and until we know how it is shown, we do not understand the grounds of our opinion. But when we turn to subjects infinitely more complicated, to morals, religion, politics, social relations, and the business of life, three-fourths of the arguments for every disputed opinion consist in dispelling the appearances which favor some opinion different from it. The greatest orator, save one, of antiquity, has left it on record that he always studied his adversary's case with as great, if not still greater, intensity than even his own. What Cicero practised as the means of forensic success, requires to be imitated by all who study any subject in order to arrive at the truth. He who knows only his own side of the case, knows little of that. His reasons may be good, and no one may have been able to refute them. But if he is equally unable to refute the reasons on the opposite side; if he does not so much as know what they are, he has no ground for preferring either opinion. The rational position for him would be suspension of judgment, and unless he contents himself with that, he is either led by authority, or adopts, like the generality of the world, the side to which he feels most inclination. Nor is it enough that he should hear the arguments of adversaries from his own teachers, presented as they state them, and accompanied by what they offer as refutations. That is not the way to do justice to the arguments, or bring them into real contact with his own mind. He must be able to hear them from persons who actually believe them; who defend them in earnest, and do their very utmost for them. He must know them in their most plausible and persuasive form; he must feel the whole force of the difficulty which the true view of the subject has to encounter and dispose of; else he will never really possess himself of the portion of truth which meets and removes that difficulty. Ninety-nine in a hundred of what are called educated men are in this condition; even of those who can argue fluently for their opinions. Their conclusion may be true, but it might be false for anything they know—they have never thrown themselves into the mental position of those who think differently from them, and considered what such persons may have to say; and, consequently, they do not, in any proper sense of the word, know the doctrine which they themselves profess. They do not know those parts of it which explain and justify the remainder; the considerations which show that a fact which seemingly conflicts with another is reconcilable with it, or that, of two apparently strong reasons, one and not the other ought to be preferred. All that part of the truth which turns the scale, and decides the judgment of a completely informed mind, they are strangers to; nor is it ever really known, but to those who have attended equally and impartially to both sides, and endeavored to

see the reasons of both in the strongest light. So essential is this discipline to a real understanding of moral and human subjects, that if opponents of all important truths do not exist, it is indispensable to imagine them, and supply them with the strongest arguments which the most skilful devil's advocate can conjure up.

To abate the force of these considerations, an enemy of free discussion may be supposed to say that there is no necessity for mankind in general to know and understand all that can be said against or for their opinions by philosophers and theologians. That it is not needful for common men to be able to expose all the misstatements or fallacies of an ingenious opponent. That it is enough if there is always somebody capable of answering them, so that nothing likely to mislead uninstructed persons remains unrefuted. That simple minds, having been taught the obvious grounds of the truths inculcated on them, may trust to authority for the rest, and being aware that they have neither knowledge nor talent to resolve every difficulty which can be raised, may repose in the assurance that all those which have been raised have been or can be answered, by those who are specially trained to the task.

Conceding to this view of the subject the utmost that can be claimed for it by those most easily satisfied with the amount of understanding of truth which ought to accompany the belief of it; even so, the argument for free discussion is no way weakened. For even this doctrine acknowledges that mankind ought to have a rational assurance that all objections have been satisfactorily answered; and how are they to be answered if that which requires to be answered is not spoken? or how can the answer be known to be satisfactory, if the objectors have no opportunity of showing that it is unsatisfactory? If not the public, at least the philosophers and theologians who are to resolve the difficulties, must make themselves familiar with those difficulties in their most puzzling form; and this cannot be accomplished unless they are freely stated, and placed in the most advantageous light which they admit of. The Catholic Church has its own way of dealing with this embarrassing problem. It makes a broad separation between those who can be permitted to receive its doctrines on conviction, and those who must accept them on trust. Neither, indeed, are allowed any choice as to what they will accept; but the clergy, such at least as can be fully confided in, may admissibly and meritoriously make themselves acquainted with the arguments of opponents, in order to answer them, and may, therefore, read heretical books; the laity, not unless by special permission, hard to be obtained. This discipline recognizes a knowledge of the enemy's case as beneficial to the teachers, but finds means, consistent with this, of denying it to the rest of the world, thus giving to the *élite* more mental culture, though not more mental freedom, than it allows to the mass. By this device it succeeds in obtaining the kind of mental superiority

which its purposes require; for though culture without freedom never made a large and liberal mind, it can make a clever *nisi prius* advocate of a cause. But in countries professing Protestantism, this resource is denied; since Protestants hold, at least in theory, that the responsibility for the choice of a religion must be borne by each for himself, and cannot be thrown off upon teachers. Besides, in the present state of the world, it is practically impossible that writings which are read by the instructed can be kept from the uninstructed. If the teachers of mankind are to be cognizant of all that they ought to know, everything must be free to be written and published without restraint.

If, however, the mischievous operation of the absence of free discussion, when the received opinions are true, were confined to leaving men ignorant of the grounds of those opinions, it might be thought that this, if an intellectual, is no moral evil, and does not affect the worth of the opinions, regarded in their influence on the character. The fact, however, is, that not only the grounds of the opinion are forgotten in the absence of discussion, but too often the meaning of the opinion itself. The words which convey it cease to suggest ideas, or suggest only a small portion of those they were originally employed to communicate. Instead of a vivid conception, and a living belief, there remain only a few phrases retained by rote; or, if any part, the shell and husk only of the meaning is retained, the finer essence being lost. The great chapter in human history which this fact occupies and fills, cannot be too earnestly studied and meditated on.

It is illustrated in the experience of almost all ethical doctrines and religious creeds. They are all full of meaning and vitality to those who originate them, and to the direct disciples of the originators. Their meaning continues to be felt in undiminished strength, and is perhaps brought out into even fuller consciousness, so long as the struggle lasts to give the doctrine or creed an ascendency over other creeds. At last it either prevails, and becomes the general opinion, or its progress stops; it keeps possession of the ground it has gained, but ceases to spread further. When either of these results has become apparent, controversy on the subject flags, and gradually dies away. The doctrine has taken its place, if not as a received opinion, as one of the admitted sects or divisions of opinion; those who hold it have generally inherited, not adopted it; and conversion from one of these doctrines to another, being now an exceptional fact, occupies little place in the thoughts of their professors. Instead of being, as at first, constantly on the alert, either to defend themselves against the world, or to bring the world over to them, they have subsided into acquiescence, and neither listen, when they can help it, to arguments against their creed, nor trouble dissentients (if there be such) with arguments in its favor. From this time may usually be dated the decline in the living power of the doctrine.

We often hear the teachers of all creeds lamenting the difficulty of keeping up in the minds of believers a lively apprehension of the truth which they nominally recognize, so that it may penetrate the feelings, and acquire a real mastery over the conduct. No such difficulty is complained of while the creed is still fighting for its existence; even the weaker combatants then know and feel what they are fighting for, and the difference between it and other doctrines; and in that period of every creed's existence, not a few persons may be found who have realized its fundamental principles in all the forms of thought, have weighed and considered them in all their important bearings, and have experienced the full effect on the character which belief in that creed ought to produce in a mind thoroughly imbued with it. But when it has come to be an hereditary creed, and to be received passively, not actively—when the mind is no longer compelled, in the same degree as at first, to exercise its vital powers on the questions which its belief presents to it, there is a progressive tendency to forget all of the belief except the formularies, or to give it a dull and torpid assent, as if accepting it on trust dispensed with the necessity of realizing it in consciousness, or testing it by personal experience; until it almost ceases to connect itself at all with the inner life of the human being. Then are seen the cases, so frequent in this age of the world as almost to form the majority, in which the creed remains as it were outside the mind, incrusting and petrifying it against all other influences addressed to the higher parts of our nature; manifesting its power by not suffering any fresh and living conviction to get in, but itself doing nothing for mind or heart, except standing sentinel over them to keep them vacant.

To what an extent doctrines intrinsically fitted to make the deepest impression upon the mind may remain in it as dead beliefs, without being ever realized in the imagination, the feelings, or the understanding, is exemplified by the right in which the majority of believers hold the doctrines of Christianity. By Christianity I here mean what is accounted such by all churches and sects—the maxims and precepts contained in the New Testament. These are considered sacred, and accepted as laws, by all professing Christians. Yet it is scarcely too much to say that not one Christian in a thousand guides or tests his individual conduct by reference to those laws. The standard to which he does refer it, is the custom of his nation, his class, or his religious profession. He has thus, on the one hand, a collection of ethical maxims, which he believes to have been vouchsafed to him by infallible wisdom as rules for his government; and on the other a set of every-day judgments and practices, which go a certain length with some of those maxims, not so great a length with others, stand in direct opposition to some, and are, on the whole, a compromise between the Christian creed and the interests and suggestions of worldly life. To the first of these

standards he gives his homage; to the other his real allegiance. All Christians believe that the blessed are the poor and humble, and those who are ill-used by the world; that it is easier for a camel to pass through the eye of a needle than for a rich man to enter the kingdom of heaven; that they should judge not, lest they be judged; that they should swear not at all; that they should love their neighbor as themselves; that if one take their cloak, they should give him their coat also; that they should take no thought for the morrow; that if they would be perfect, they should sell all that they have and give it to the poor. They are not insincere when they say that they believe these things. They do believe them, as people believe what they have always heard lauded and never discussed. But in the sense of that living belief which regulates conduct they believe these doctrines just up to the point to which it is usual to act upon them. The doctrines in their integrity are serviceable to pelt adversaries with; and it is understood that they are to be put forward (when possible) as the reasons for whatever people do that they think laudable. But any one who reminded them that the maxims require an infinity of things which they never even think of doing, would gain nothing but to be classed among those very unpopular characters who affect to be better than other people. The doctrines have no hold on ordinary believers—are not a power in their minds. They have an habitual respect for the sound of them, but no feeling which spreads from the words to the things signified, and forces the mind to take *them* in, and make them conform to the formula. Whenever conduct is concerned, they look round for Mr. A and B to direct them how far to go in obeying Christ.

Now we may be well assured that the case was not thus, but far otherwise, with the early Christians. Had it been thus, Christianity never would have expanded from an obscure sect of the despised Hebrews into the religion of the Roman empire. When their enemies said, "See how these Christians love one another" (a remark not likely to be made by anybody now), they assuredly had a much livelier feeling of the meaning of their creed than they have ever had since. And to this cause, probably, it is chiefly owing that Christianity now makes so little progress in extending its domain, and, after eighteen centuries, is still nearly confined to Europeans and the descendants of Europeans. Even with the strictly religious, who are much in earnest about their doctrines, and attach a greater amount of meaning to many of them than people in general, it commonly happens that the part which is thus comparatively active in their minds is that which was made by Calvin, or Knox, or some such person much nearer in character to themselves. The sayings of Christ co-exist passively in their minds, producing hardly any effect beyond what is caused by mere listening to words so amiable and bland. There are many reasons, doubtless, why doctrines which are

the badge of a sect retain more of their vitality than those common to all recognized sects, and why more pains are taken by teachers to keep their meaning alive; but one reason certainly is, that the peculiar doctrines are more questioned, and have to be oftener defended against open gainsayers. Both teachers and learners go to sleep at their post, as soon as there is no enemy in the field.

The same thing holds true, generally speaking, of all traditional doctrines—those of prudence and knowledge of life, of morals or religion. All languages and literatures are full of general observations on life, both as to what it is, and how to conduct one's self in it; observations which everybody knows, which everybody repeats or hears with acquiesence, which are received as truisms, yet of which most people first truly learn the meaning, when experience, generally of a painful kind, has made it a reality to them. How often, when smarting under some unforeseen misfortune or disappointment, does a person call to mind some proverb or common saying, familiar to him all his life, the meaning of which, if he had ever before felt it as he does now, would have saved him from the calamity. There are indeed reasons for this, other than the absence of discussion; there are many truths of which the full meaning *cannot* be realized, until personal experience has brought it home. But much more of the meaning even of these would have been understood, and what was understood would have been far more deeply impressed on the mind, if the man had been accustomed to hear it argued *pro* and *con* by people who did understand it. The tendency of mankind to leave off thinking about a thing when it is no longer doubtful, is the cause of half their errors. A contemporary author has well spoken of "the deep slumber of a decided opinion."

But what! (it may be asked) Is the absence of unanimity an indispensable condition of true knowledge? Is it necessary that some part of mankind should persist in error, to enable any to realize the truth? Does a belief cease to be real and vital as soon as it is generally received —and is a proposition never thoroughly understood and felt unless some doubt of it remains? As soon as mankind have unanimously accepted a truth, does the truth perish within them? The highest aim and best result of improved intelligence, it has hitherto been thought, is to unite mankind more and more in the acknowledgment of all important truths; and does the intelligence last only as long as it has not achieved its object? Do the fruits of conquest perish by the very completeness of the victory?

I affirm no such thing. As mankind improve, the number of doctrines which are no longer disputed or doubted will be constantly on the increase; and the well-being of mankind may almost be measured by the number and gravity of the truths which have reached the point of being uncontested. The cessation, on one question after another, of serious

controversy, is one of the necessary incidents of the consolidation of opinion; a consolidation as salutary in the case of true opinions, as it is dangerous and noxious when the opinions are erroneous. But though this gradual narrowing of the bounds of diversity of opinion is necessary in both senses of the term, being at once inevitable and indispensable, we are not therefore obliged to conclude that all its consequences must be beneficial. The loss of so important an aid to the intelligent and living apprehension of a truth, as is afforded by the necessity of explaining it to, or defending it against, opponents, though not sufficient to outweigh, is no trifling drawback from, the benefit of its universal recognition. Where this advantage can no longer be had, I confess I should like to see the teachers of mankind endeavoring to provide a substitute for it; some contrivance for making the difficulties of the question as present to the learner's consciousness as if they were pressed upon him by a dissentient champion, eager for his conversion.

But instead of seeking contrivances for this purpose, they have lost those they formerly had. The Socratic dialectics, so magnificently exemplified in the dialogues of Plato, were a contrivance of this description. They were essentially a negative discussion of the great questions of philosophy and life, directed with consummate skill to the purpose of convincing any one who had merely adopted the commonplaces of received opinion, that he did not understand the subject—that he as yet attached no definite meaning to the doctrines he professed; in order that, becoming aware of his ignorance, he might be put in the way to obtain a stable belief, resting on a clear apprehension both of the meaning of doctrines and of their evidence. The school disputations of the Middle Ages had a somewhat similar object. They were intended to make sure that the pupil understood his own opinion, and (by necessary correlation) the opinion opposed to it, and could enforce the grounds of the one and confute those of the other. These last-mentioned contests had indeed the incurable defect, that the premises appealed to were taken from authority, not from reason; and, as a discipline to the mind, they were in every respect inferior to the powerful dialectics which formed the intellects of the "Socratici viri"; but the modern mind owes far more to both than it is generally willing to admit, and the present modes of education contain nothing which in the smallest degree supplies the place either of the one or of the other. A person who derives all his instruction from teachers or books, even if he escape the besetting temptation of contenting himself with cram, is under no compulsion to hear both sides; accordingly it is far from a frequent accomplishment, even among thinkers, to know both sides; and the weakest part of what everybody says in defence of his opinion is what he intends; as a reply to antagonists. It is the fashion of the present time to disparage negative logic —that which points out weaknesses in theory or errors in practice, with-

out establishing positive truths. Such negative criticism would indeed be poor enough as an ultimate result; but as a means to attaining any positive knowledge or conviction worthy the name, it cannot be valued too highly; and until people are again systematically trained to it, there will be few great thinkers, and a low general average of intellect, in any but the mathematical and physical departments of speculation. On any other subject, no one's opinions deserve the name of knowledge, except so far as he has either had forced upon him by others, or gone through of himself, the same mental process which would have been required of him in carrying on an active controversy with opponents. That, therefore, which when absent, it is so indispensable, but so difficult, to create, how worse than absurd it is to forego, when spontaneously offering itself! If there are any persons who contest a received opinion, or who will do so if law or opinion will let them, let us thank them for it, open our minds to listen to them, and rejoice that there is some one to do for us what we otherwise ought, if we have any regard for either the certainty or the vitality of our convictions, to do with much greater labor for ourselves.

It still remains to speak of one of the principal causes which make diversity of opinion advantageous, and will continue to do so until mankind shall have entered a stage of intellectual advancement which at present seems at an incalculable distance. We have hitherto considered only two possibilities: That the received opinion may be false, and some other opinion, consequently, true; or that, the received opinion being true, a conflict with the opposite error is essential to a clear apprehension and deep feeling of its truth. But there is a commoner case than either of these—when the conflicting doctrines, instead of being one true and the other false, share the truth between them; and the nonconforming opinion is needed to supply the remainder of the truth, of which the received doctrine embodies only a part. Popular opinions, on subjects not palpable to sense, are often true, but seldom or never the whole truth. They are a part of the truth; sometimes a greater, sometimes a smaller part, but exaggerated, distorted, and disjoined from the truths by which they ought to be accompanied and limited. Heretical opinions, on the other hand, are generally some of these suppressed and neglected truths, bursting the bonds which kept them down, and either seeking reconciliation with the truth contained in the common opinion, or fronting it as enemies, and setting themselves up, with similar exclusiveness, as the whole truth. The latter case is hitherto the most frequent, as, in the human mind, one-sidedness has always been the rule, and many-sidedness the exception. Hence, even in revolutions of opinion, one part of the truth usually sets while another rises. Even progress, which ought to superadd, for the most part only substitutes one partial and incomplete truth for another; improvement consisting chiefly in this, that the

new fragment of truth is more wanted, more adapted to the needs of the time, than that which it displaces.

Such being the partial character of prevailing opinions, even when resting on a true foundation, every opinion which embodies somewhat of the portion of truth which the common opinion omits, ought to be considered precious, with whatever amount of error and confusion that truth may be blended. No sober judge of human affairs will feel bound to be indignant because those who force on our notice truths which we should otherwise have overlooked, overlook some of those which we see. Rather, he will think that so long as popular truth is one-sided, it is more desirable than otherwise that unpopular truth should have one-sided assertors too; such being usually the most energetic, and the most likely to compel reluctant attention to the fragment of wisdom which they proclaim as if it were the whole.

Thus, in the eighteenth century, when nearly all the instructed, and all those of the uninstructed who were led by them, were lost in admiration of what is called civilization, and of the marvels of modern science, literature, and philosophy, and while greatly overrating the amount of unlikeness between the men of modern and those of ancient times, indulged the belief that the whole of the difference was in their own favor; with what a salutary shock did the paradoxes of Rousseau explode like bombshells in the midst, dislocating the compact mass of one-sided opinion, and forcing its elements to recombine in a better form and with additional ingredients. Not that the current opinions were on the whole farther from the truth than Rousseau's were; on the contrary, they were nearer to it; they contained more of positive truth, and very much less of error. Nevertheless there lay in Rousseau's doctrine, and has floated down the stream of opinion along with it, a considerable amount of exactly those truths which the popular opinion wanted; and these are the deposit which was left behind when the flood subsided. The superior worth of simplicity of life, the enervating and demoralizing effect of the trammels and hypocrisies of artificial society, are ideas which have never been entirely absent from cultivated minds since Rousseau wrote; and they will in time produce their due effect, though at present needing to be asserted as much as ever, and to be asserted by deeds, for words, on this subject, have nearly exhausted their power.

In politics, again, it is almost a commonplace, that a party of order or stability, and a party of progress or reform, are both necessary elements of a healthy state of political life; until the one or the other shall have so enlarged its mental grasp as to be a party equally of order and of progress, knowing and distinguishing what is fit to be preserved from what ought to be swept away. Each of these modes of thinking derives its utility from the deficiencies of the other; but it is in a great measure the opposition of the other that keeps each within the limits of reason

and sanity. Unless opinions favorable to democracy and to aristocracy, to property and to equality, to co-operation and to competition, to luxury and to abstinence, to sociality and individuality, to liberty and discipline, and all the other standing antagonisms of practical life, are expressed with equal freedom, and enforced and defended with equal talent and energy, there is no chance of both elements obtaining their due; one scale is sure to go up, and the other down. Truth, in the great practical concerns of life, is so much a question of the reconciling and combining of opposites, that very few have minds sufficiently capacious and impartial to make the adjustment with an approach to correctness, and it has to be made by the rough process of a struggle between combatants fighting under hostile banners. On any of the great open questions just enumerated, if either of the two opinions has a better claim than the other, not merely to be tolerated, but to be encouraged and countenanced, it is the one which happens at the particular time and place to be in a minority. That is the opinion which, for the time being, represents the neglected interests, the side of human well-being which is in danger of obtaining less than its share. I am aware that there is not, in this country, any intolerance of differences of opinion on most of these topics. They are adduced to show, by admitted and multiplied examples, the universality of the fact, that only through diversity of opinion is there, in the existing state of human intellect, a chance of fair play to all sides of the truth. When there are persons to be found, who form an exception to the apparent unanimity of the world on any subject, even if the world is in the right, it is always probable that dissentients have something worth hearing to say for themselves, and that truth would lose something by their silence.

It may be objected, "But *some* received principles, especially on the highest and most vital subjects, are more than half-truths. The Christian morality, for instance, is the whole truth on that subject, and if any one teaches a morality which varies from it, he is wholly in error." As this is of all cases the most important in practice, none can be fitter to test the general maxim. But before pronouncing what Christian morality is or is not, it would be desirable to decide what is meant by Christian morality. If it means the morality of the New Testament, I wonder that any one who derives his knowledge of this from the book itself, can suppose that it was announced, or intended, as a complete doctrine of morals. The Gospel always refers to a pre-existing morality, and confines its precepts to the particulars in which that morality was to be corrected, or superseded by a wider and higher; expressing itself, moreover, in terms most general, often impossible to be interpreted literally, and possessing rather the impressiveness of poetry or eloquence than the precision of legislation. To extract from it a body of ethical doctrine has never been possible without eking it out from the Old Testament;

that is, from a system elaborate indeed, but in many respects barbarous, and intended only for a barbarous people. St. Paul, a declared enemy to this Judaical mode of interpreting the doctrine and filling up the scheme of his Master, equally assumes a pre-existing morality, namely that of the Greeks and Romans; and his advice to Christians is in a great measure a system of accommodation to that; even to the extent of giving an apparent sanction to slavery. What is called Christian, but should rather be termed theological, morality, was not the work of Christ or the Apostles, but is of much later origin, having been gradually built up by the Catholic Church of the first five centuries, and though not implicitly adopted by modern and Protestants, has been much less modified by them than might have been expected. For the most part, indeed, they have contented themselves with cutting off the additions which had been made to it in the Middle Ages, each sect supplying the place by fresh additions, adapted to its own character and tendencies. That mankind owe a great debt to this morality, and to its early teachers, I should be the last person to deny; but I do not scruple to say of it that it is, in many important points, incomplete and one-sided, and that unless ideas and feelings, not sanctioned by it, had contributed to the formation of European life and character, human affairs would have been in a worse condition than they now are.

Christian morality (so called) has all the characters of a reaction; it is, in great part, a protest against Paganism. Its ideal is negative rather than positive; passive rather than active; Innocence rather than Nobleness; Abstinence from Evil, rather than energetic Pursuit of Good; in its precepts (as has been well said) "thou shalt not" predominates unduly over "thou shalt." In its horror of sensuality, it made an idol of asceticism, which has been gradually compromised away into one of legality. It holds out the hope of heaven and the threat of hell, as the appointed and appropriate motives to a virtuous life—in this falling far below the best of the ancients, and doing what lies in it to give to human morality an essentially selfish character, by disconnecting each man's feelings of duty from the interests of his fellow-creatures, except so far as a self-interested inducement is offered to him for consulting them. It is essentially a doctrine of passive obedience; it inculcates submission to all authorities found established; who indeed are not to be actively obeyed when they command what religion forbids, but who are not to be resisted, far less rebelled against, for any amount of wrong to ourselves. And while, in the morality of the best Pagan nations, duty to the State holds even a disproportionate place, infringing on the just liberty of the individual, in purely Christian ethics, that grand department of duty is scarcely noticed or acknowledged. It is in the Koran, not the New Testament, that we read the maxim—"A ruler who appoints any man to an office, when there is in his dominions another man better

qualified for it, sins against God and against the State." What little recognition the idea of obligation to the public obtains in modern morality, is derived from Greek and Roman sources, not from Christian; as, even in the morality of private life, whatever exists of magnanimity, highmindedness, personal dignity, even the sense of honor, is derived from the purely human, not the religious, part of our education, and never could have grown out of a standard of ethics in which the only worth, professedly recognized, is that of obedience.

I am as far as any one from pretending that these defects are necessarily inherent in the Christian ethics, in every manner in which it can be conceived, or that the many requisites of a complete moral doctrine which it does not contain, do not admit of being reconciled with it. Far less would I insinuate this of the doctrines and precepts of Christ himself. I believe that the sayings of Christ are all that I can see any evidence of their having been intended to be; that they are irreconcilable with nothing which a comprehensive morality requires; that everything which is excellent in ethics may be brought within them, with no greater violence to their language than has been done to it by all who have attempted to deduce from them any practical system of conduct whatever. But it is quite consistent with this, to believe that they contain, and were meant to contain, only a part of the truth; that many essential elements of the highest morality are among the things which are not provided for, nor intended to be provided for, in the recorded deliverances of the Founder of Christianity, and which have been entirely thrown aside in the system of ethics erected on the basis of those deliverances by the Christian Church. And this being so, I think it a great error to persist in attempting to find in the Christian doctrine that complete rule for our guidance, which its author intended it to sanction and enforce, but only partially to provide. I believe, too, that this narrow theory is becoming a grave practical evil, detracting greatly from the moral training and instruction which so many well-meaning persons are now at length exerting themselves to promote. I much fear that by attempting to form the mind and feelings on an exclusively religious type, and discarding those secular standards (as for want of a better name they may be called) which heretofore co-existed with and supplemented the Christian ethics, receiving some of its spirit, and infusing into it some of theirs, there will result, and is even now resulting, a low, abject, servile type of character, which, submit itself as it may to what it deems the Supreme Will, is incapable of rising to or sympathizing in the conception of Supreme Goodness. I believe that other ethics than any which can be evolved from exclusively Christian sources, must exist side by side with Christian ethics to produce the moral regeneration of mankind; and that the Christian system is no exception to the rule that in an imperfect state of the human mind the interests of truth require a diversity of opinions.

It is not necessary that in ceasing to ignore the moral truths not con tained in Christianity, men should ignore any of those which it does contain. Such prejudice, or oversight, when it occurs, is altogether an evil; but it is one from which we cannot hope to be always exempt, and must be regarded as the price paid for an inestimable good. The exclusive pretension made by a part of the truth to be the whole, must and ought to be protested against; and if a reactionary impulse should make the protesters unjust in their turn, this one-sidedness, like the other, may be lamented, but must be tolerated. If Christians would teach infidels to be just to Christianity, they should themselves be just to infidelity. It can do truth no service to blink the fact, known to all who have the most ordinary acquaintance with literary history, that a large portion of the truest and most valuable moral teaching has been the work, not only of men who did not know, but of men who knew and rejected, the Christian faith.

I do not pretend that the most unlimited use of the freedom of enunciating all possible opinions would put an end to the evils of religious or philosophical sectarianism. Every truth which men of narrow capacity are in earnest about, is sure to be asserted, inculcated, and in many ways even acted on, as if no other truth existed in the world, or at all events, none that could limit or qualify the first. I acknowledge that the tendency of all opinions to become sectarian is not cured by the freest discussion, but is often heightened and exacerbated thereby; the truth which ought to have been, but was not, seen, being rejected all the more violently because proclaimed by persons regarded as opponents. But it is not on the impassioned partisan, it is on the calmer and more disinterested bystander, that this collision of opinions works its salutary effect. Not the violent conflict between parts of the truth, but the quiet suppression of half of it, is the formidable evil; there is always hope when people are forced to listen to both sides; it is when they attend only to one that errors harden into prejudices, and truth itself ceases to have the effect of truth, by being exaggerated into falsehood. And since there are few mental attributes more rare than that judicial faculty which can sit in intelligent judgment between two sides of a question, of which only one is represented by an advocate before it, truth has no chance but in proportion as every side of it, every opinion which embodies any fraction of the truth, not only finds advocates, but is so advocated as to be listened to.

We have now recognized the necessity to the mental well-being of mankind (on which all their other well-being depends) of freedom of opinion, and freedom of the expression of opinion, on four distinct grounds; which we will now briefly recapitulate.

First, if any opinion is compelled to silence, that opinion may, for

aught we can certainly know, be true. To deny this is to assume our own infallibility.

Secondly, though the silenced opinion be an error, it may, and very commonly does, contain a portion of truth; and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied.

Thirdly, even if the received opinion be not only true, but the whole truth; unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds. And not only this, but, Fourthly, the meaning of the doctrine itself will be in danger of being lost, or enfeebled, and deprived of its vital effect on the character and conduct; the dogma becoming a mere formal profession, inefficacious for good, but cumbering the ground, and preventing the growth of any real and heartfelt conviction, from reason or personal experience.

Before quitting the subject of freedom of opinion, it is fit to take some notice of those who say that the free expression of all opinions should be permitted, on condition that the manner be temperate, and do not pass the bounds of fair discussion. Much might be said on the impossibility of fixing where these supposed bounds are to be placed; for if the test be offence to those whose opinions are attacked, I think experience testifies that this offence is given whenever the attack is telling and powerful, and that every opponent who pushes them hard, and whom they find it difficult to answer, appears to them, if he shows any strong feeling on the subject, an intemperate opponent. But this, though an important consideration in a practical point of view, merges in a more fundamental objection. Undoubtedly the manner of asserting an opinion, even though it be a true one, may be very objectionable, and may justly incur severe censure. But the principal offences of the kind are such as it is mostly impossible, unless by accidental self-betrayal, to bring home to conviction. The gravest of them is, to argue sophistically, to suppress facts or arguments, to misstate the elements of the case, or misrepresent the opposite opinion. But all this, even to the most aggravated degree, is so continually done in perfect good faith, by persons who are not considered, and in many other respects may not deserve to be considered, ignorant or incompetent, that it is rarely possible, on adequate grounds, conscientiously to stamp the misrepresentation as morally culpable; and still less could law presume to interfere with this kind of controversial misconduct. With regard to what is commonly meant by intemperate discussion, namely, invective, sarcasm, personality, and the like, the denunciation of these weapons would deserve

more sympathy if it were ever proposed to interdict them equally to both sides; but it is only desired to restrain the employment of them against the prevailing opinion; against the unprevailing they may not only be used without general disapproval, but will be likely to obtain for him who uses them the praise of honest zeal and righteous indignation. Yet whatever mischief arises from their use, is greatest when they are employed against the comparatively defenceless; and whatever unfair advantage can be derived by any opinion from this mode of asserting it, accrues almost exclusively to received opinions. The worst offence of this kind which can be committed by a polemic, is to stigmatize those who hold the contrary opinion as bad and immoral men. To calumny of this sort, those who hold any unpopular opinion are peculiarly exposed, because they are in general few and uninfluential, and nobody but themselves feels much interested in seeing justice done them; but this weapon is, from the nature of the case, denied to those who attack a prevailing opinion; they can neither use it with safety to themselves, nor, if they could, would it do anything but recoil on their own cause. In general, opinions contrary to those commonly received can obtain a hearing only by studied moderation of language, and the most cautious avoidance of unnecessary offence, from which they hardly ever deviate even in a slight degree without losing ground; while unmeasured vituperation employed on the side of the prevailing opinion, really does deter people from professing contrary opinions, and from listening to those who profess them. For the interest, therefore, of truth and justice, it is far more important to restrain this employment of vituperative language than the other; and, for example, if it were necessary to choose, there would be much more need to discourage offensive attacks on infidelity than on religion. It is, however, obvious that law and authority have no business with restraining either, while opinion ought, in every instance, to determine its verdict by the circumstances of the individual case; condemning every one, on whichever side of the argument he places himself, in whose mode of advocacy either want of candor, or malignity, bigotry, or intolerance of feeling manifest themselves; but not inferring these vices from the side which a person takes, though it be on the contrary side of the question to our own; and giving merited honor to every one, whatever opinion he may hold, who has calmness to see and honesty to state what his opponents and their opinions really are, exaggerating nothing to their discredit, keeping nothing back which tells, or can be supposed to tell, in their favor. This is the real morality of public discussion; and, if often violated, I am happy to think that there are many controversialists who to a great extent observe it, and a still greater number who conscientiously strive towards it.

THOMAS HENRY HUXLEY: From "Miscellaneous Essays," about 1875.

There are in the world a number of extremely worthy, well meaning persons, whose judgments and opinions are entitled to the utmost respect on account of their sincerity, who are of opinion that vital phenomena, and especially all questions relating to the origin of vital phenomena, are questions quite apart from the ordinary run of inquiry, and are, by their very nature, placed out of our reach. They say that all these phenomena originated miraculously, or in some way totally different from the ordinary course of nature, and that therefore they conceive it to be futile, not to say presumptuous, to attempt to inquire into them.

To such sincere and earnest persons, I would only say that a question of this kind is not to be shelved upon theoretic or speculative grounds. You may remember the story of the Sophist who demonstrated to Diogenes in the most complete and satisfactory manner that he could not walk; that in fact, all motion was an impossibility; and that Diogenes refuted him by simply getting up and walking round his tub. So, in the same way, the man of science replies to objections of this kind, by simply getting up and walking onward, and showing what science has done and is doing—by pointing to the immense mass of facts which have been ascertained and systematized under the forms of the great doctrines of Morphology, of Development, of Distribution, and the like. He sees an enormous mass of facts and laws relating to organic beings, which stand on the same good sound foundation as every other natural law. With this mass of facts and laws before us, therefore, seeing that, as far as organic matters have hitherto been accessible and studied, they have shown themselves capable of yielding to scientific investigation, we may accept this as a proof that order and law reign there as well as in the rest of nature. The man of science says nothing to objectors of this sort, but supposes that we can and shall walk to a knowledge of organic nature, in the same way that we have walked to a knowledge of the laws and principles of the inorganic world.

But there are objectors who say the same from ignorance and ill-will. To such I would reply that the objection comes ill from them, and that the real presumption—I may almost say, the real blasphemy—in this matter, is in the attempt to limit that inquiry into the causes of phenomena, which is the source of all human blessings, and from which has sprung all human prosperity and progress; for, after all, we can accomplish comparatively little. The limit range of our own faculties bounds us on every side—the field of our powers of observation is small enough, and he who endeavors to narrow the sphere of our inquiries is only pursuing a course that is likely to produce the greatest harm to his fellow men. . . .

Wherever bibliolatry has prevailed, bigotry and cruelty have accompanied it. It lies at the root of the deep-seated, sometimes disguised, but never absent, antagonism of all the varieties of ecclesiasticism to the freedom of thought and to the spirit of scientific investigation. To those who look upon ignorance as one of the chief sources of evil, and hold veracity, not merely in act, but in thought, to be the one condition of true progress, whether moral or intellectual, it is clear that the biblical idol must go the way of all other idols. Of infallibility in all shapes, lay or clerical [as to sexual ethics or otherwise], it is needful to iterate with more than Catonic pertinacity, "*Delenda est.*"

HERBERT SPENCER: From "Principles of Ethics," 1879.

If we interpret the meaning of words literally, to assert freedom of belief as a right is absurd; since by no external power can this be taken away. Indeed an assertion of it involves a double absurdity; for while belief cannot really be destroyed or changed by coercion from without, it cannot really be destroyed or changed by coercion from within, if it is determined by causes which lie beyond external control, and in large measure beyond internal control. What is meant is, of course, the right freely to *profess* belief.

That this is a corollary from the law of equal freedom scarcely needs saying. The profession of a belief by any one, does not of itself interfere with the professions of other beliefs by others; and others, if they impose on any one their professions of belief, manifestly assume more liberty of action than he assumes.

In respect of these miscellaneous beliefs, which do not concern in any obvious way the maintenance of established institutions, freedom of belief is not called in question. Ignoring exceptions presented by some uncivilized societies, we may say that it is only those beliefs the profession of which seems at variance with the existing social order, which are interdicted. To be known as one who holds that the political system, or the social organization, is not what it ought to be, entails penalties in times and places where the militant type of organization is unqualified. But naturally, where fundamental rights are habitually disregarded, no regard for a right less conspicuously important is to be expected. The fact that the right of political dissent is denied where rights in general are denied, affords no reason for doubting that it is a direct deduction from the law of equal freedom. . . .

As belief, considered in itself does not admit of being controlled by external power—as it is only the profession of belief which can be taken cognizance of by authority and permitted, or prevented, it follows that the assertion of the right to freedom of belief implies the right to freedom of speech. Further, it implies the right to use speech for the

propagation of belief; seeing that each of the propositions constituting an argument, or arguments, used to support or enforce a belief, being itself a belief, the right to express it is included with the right to express the belief to be justified.

Of course the one right like the other is an immediate corollary from the law of equal freedom. By using speech, either for the expression of a belief or for the maintenance of a belief, no one prevents any other person from doing the like; unless, indeed by vociferation or persistence he prevents another from being heard, in which case he is habitually recognized as unfair, that is, as breaking the law of equal freedom.

Evidently with change of terms, the same things may be said concerning the right of publication—"the liberty of unlicensed printing." In respect of their ethical relations, there exists no essential difference between the act of speaking and the act of symbolizing speech by writing, or the act of multiplying copies of that which has been written. . . .

It is said that a government ought to guarantee its subjects "security and a sense of security"; whence it is inferred that magistrates ought to keep ears open to the declamations of popular orators, and stop such as are calculated to create alarm. This inference, however, is met by the difficulty that since every considerable change, political or religious, is, when first urged, dreaded by the majority, and thus diminishes their sense of security, the advocacy of it should be prevented. There were multitudes of people who suffered chronic alarm during the Reform Bill agitation: and had the prevention of that alarm been imperative, the implication is that the agitation ought to have been suppressed. So, too, great numbers who were moved by the terrible forecasts of *The Standard* and the melancholy wailings of *The Herald*, would fain have put down the free-trade propaganda; and had it been requisite to maintain their sense of security they should have had their way. And similarly, with removal of Catholic disabilities. Prophecies were rife of the return of papal persecutions with all their horrors. Hence the speaking and writing which brought about the change ought to have been forbidden, had the maintenance of a sense of security been held imperative.

Evidently such proposals to limit the right of free speech, political or religious, can be defended only by making the tacit assumption that whatever political or religious beliefs are at the time established, are wholly true; and since this tacit assumption has throughout the past proved to be habitually erroneous, regard for experience may reasonably prevent us from assuming that the current beliefs are wholly true. We must recognize free speech as still being the agency by which error is to be dissipated, and cannot without papal assumption interdict it.

Beyond the need, in past time unquestioned, for restraints on the public utterance of political and religious beliefs at variance with those

established, there is the need, still by most people thought unquestionable, for restraining utterances which pass the limits of what is thought decency, or are calculated to encourage sexual immorality. The question is a difficult one—appears, indeed, to admit of no satisfactory solution. On the one hand, it seems beyond doubt that unlimited license of speech on these matters may have the effect of undermining ideas, sentiments, and institutions which are socially beneficial; for, whatever are the defects in the existing domestic *régime*, we have strong reasons for believing that it is in most respects good. If this be so, it may be urged that publication of doctrines which tend to discredit this *régime*, is undoubtedly injurious, and should be prevented. Yet, on the other hand, we must remember it was, in the past, thought absolutely certain that the propagators of heretical opinions ought to be punished lest they should mislead and eternally damn those who heard them; and this fact suggests that there may be danger in assuming too confidently that our opinions concerning the relations of the sexes are just what they should be. In all times and places people have been positive that their ideas and feelings on these matters, as well as on religious matters, were correct; and yet, assuming that we are right, they must have been wrong. Though here in England we think it clear that the child marriages in India are vicious, yet most Hindus do not think so; and though among ourselves the majority do not see anything wrong in mercantile marriages, yet there are many who do. In parts of Africa not only is polygamy regarded as proper but monogamy is condemned, even by women; while in Thibet polyandry is not only held by the inhabitants, but it is thought by travelers to be the best arrangement practicable in their poverty-stricken country. In the presence of the multitudinous differences of opinion found even among civilized people, it seems scarcely reasonable to take for granted that we alone are above criticisms in our conceptions and practices; and unless we do this, restraints on free speech concerning the relations of the sexes may possibly be hindrances to something better and higher.

Doubtless there must be evils attendant on free speech in this sphere as in the political and religious sphere; but the conclusion above implied is that the evils must be tolerated in consideration of the possible benefit. Further, it should be borne in mind that such evils will always be kept in check by public opinion. The dread of saying or writing that which will bring social ostracism, proves in many cases far more effectual than does legal restriction.

Though it is superfluous to point out that, in common with other rights, the rights of free speech and publication, in early times and most places either denied or not overtly recognized, have gradually established themselves; yet some evidence may fitly be cited with a view to emphasizing this truth.

Various of the facts instanced in the last chapter might be instanced afresh here: since suppression of beliefs has, by implication, been suppression of free speech. That the anger of the Jewish priests against Jesus Christ for teaching things at variance with their creed led to his crucifixion; that Paul, at first a persecutor of Christians, was himself presently persecuted for persuading men to be Christians; and that by sundry Roman emperors preachers of Christianity were martyred; are familiar examples of the denials of free speech in early times. So, too, after the Christian creed became established, the punishment of some who taught the non-divinity of Christ, of others who publicly asserted predestination, and of others who spread the doctrine of two supreme principles of good and evil, as well as the persecutions of Huss and Luther, exemplify in ways almost equally familiar the denial of the right to utter opinions contrary to those which are authorized. And so, in our country, has it been from the time when Henry IV. enacted severe penalties on teachers of heresy, down to the seventeenth century, when the non-conforming clergy were punished for teaching any other than the church doctrine and Bunyan was imprisoned for open-air preaching —down, further, to the last trial for propagating atheism which is within our own recollection. But gradually, during recent centuries, the right of free speech on religious matters, more and more asserted, has been more and more admitted; until now there is no restraint on the public utterance of any religious opinion, unless the utterance is gratuitously insulting in manner or form.

By a parallel progress there has been established that right of free speech on political questions which in early days was denied. Among the Athenians in Solon's time death was inflicted for opposition to a certain established policy; and among the Romans the utterance of proscribed opinions was punished as treason. So, too, in England, centuries ago, political criticism, even of a moderate kind, brought severe penalties. Later times have witnessed, now greater liberty of speech and now greater control—the noticeable fact being that during the war-period brought on by the French Revolution, there was a retrogade movement in respect of this right, as in respect of other rights. A judge, in 1808, declared that "It was not to be permitted to any man to make the people dissatisfied with the government under which he lives." But with the commencement of the long peace there began a decrease of the restraints on political speech, as of other restraints on freedom. Though Sir F. Burdett was imprisoned for condemning the inhuman acts of the troops, and Leigh Hunt for commenting on excessive flogging in the army, since that time there have practically disappeared all impediments to the public expression of political ideas. So long as he does not suggest the commision of crimes, each citizen is free to say what he pleases about any or all of our institutions—even to

the advocacy of a form of government utterly different from that which exists, or the condemnation of all governments.

And here, indeed, we see again how direct is the connection between international hostilities and the repression of individual freedom. For it is manifest that throughout civilization the repression of freedom of speech and freedom of publication, has been rigorous in proportion as militancy has been predominant; and that at the present time, in such contrasts as that between Russia and England, we still observe the relation.

GEORGE JACOB HOLYOAKE: *From "Sixty Years of An Agitator's Life,"* 1899.

Every newspaper proprietor was formerly treated as a blasphemer and a writer of sedition, and compelled to give substantial securities against the exercise of his infamous tendencies; every paper-maker was regarded as a thief, and the officers of the Excise dogged every step of his business with hampering, exacting, and humiliating suspicion. Every reader found with an unstamped paper in his possession was liable to a fine of 20 pounds. When the writer of this published the *War Chronicles* and *War Fly Sheets* the Inland Revenue Office bought six copies as soon as each number was out; thus he incurred fines of 120 pounds before breakfast, and when the last warrant was issued against him by the Court of Exchequer he was indebted to the Crown 600,000 pounds. Besides, he had issued an average of 2,000 copies of *The Reasoner* for twelve years, incurring fines of 40,000 pounds a week, which amounted to a considerable sum in twelve years. He who published a paper containing news, without a stamp, was also liable to have all his presses broken up, all his stock confiscated, himself, and all persons in his house, imprisoned, as had been done again and again to others within the writer's knowledge. Neither cheap newspapers nor cheap books could exist while these perils were possible. . . .

In the days of Bentham, and long after, there was such ignorant prejudice against dissection that "subjects" could not be obtained for the uses of surgical science. This could be overcome only by gentlemen leaving their bodies for dissection. Jeremy Bentham, Richard Carlile, and other distinguished Freethinkers ordered their bodies to be given for that purpose. Harriet Martineau gave similar directions with regard to her remains. There is no instance of any distinguished Christian who did this. This generous and courageous devotion to science, though creditable to Freethinkers, was a great disadvantage to their cause, and increased the public prejudice against them. . . .

The enlargement of freedom has always been due to heretics who have been unrequited during their day and defamed when dead. No [other] publisher in any country ever incurred so much peril to free the press as Richard Carlile. Every British bookseller has profited by his intrepidity and endurance. Speculations of philosophy and science, which are now part of the common intelligence, power and profit, would have been stifled to this day but for him.

Persecutions sometimes incite sensationalism, which is then held as justifying persecution to put it down. If those assailed contented themselves with simply maintaining what was [really] prohibited, just as though the prohibition was not, persecution would be equally defeated, right would be equally vindicated, and persecution afforded no pretext for recommending itself. The harm of ostentatious defiance by a minority is that power is irritated and becomes more vindictive and intimidating. Those who show the greatest daring are themselves commonly ruined. If their courage sustains them, and they do not repine themselves, their families spread warnings and dismay by telling the story of the disadvantages brought upon them. Then many who could afford to resist are alarmed, and do nothing. The hero of extreme defiance often goes to the other extreme himself, and, after keeping no terms with the church, ends in taking a pew in it and being as ostentatious in supporting as he was in defying it, without the justification of believing it. The clergy do not know their own business when they keep what they call "blasphemy laws" on the statute books, since they repress extremes by which they can always profit.

W. H. H. LECKY: From "A History of Rationalism," 1900.

If persecution is unnecessary in the defence of truth, it has a fearful efficacy in preventing men from discovering it; and when it is so employed, as infallibility does not exist among mankind, no man can assuredly decide. For truth is scattered far and wide in small portions among mankind, mingled in every system with the dross of error, grasped perfectly by no one, and only in some degree discovered by the careful comparison and collation of opposing systems. To crush some of these systems, to stifle the voice of argument, to ban and proscribe the press, or to compel it to utter only the sentiments of a single sect, is to destroy the only means we possess of arriving at truth; and as the difficulty of avoiding error is, under the most favourable circumstances, very great, it may be presumed that the doctrines which it is necessary to hold are but few, and where the error is not fundamental, it should not be suppressed by law.

The question, What is truth? has certainly no prospect of obtaining

a speedy answer; but the question, What is the spirit of truth? may be discussed with much greater prospect of agreement. By the spirit of truth, I mean that frame of mind in which men who acknowledge their own fallibility, and who desire above all things to discover what is true, should adjudicate between conflicting arguments. As soon as they have distinctly perceived that reason, that reason alone, should determine their opinions, that they never can be legitimately certain of the truth of what they have been taught till they have both examined its evidence and heard what can be said against it, and that any influence that introduces a bias of the will, is necessarily an impediment to enquiry, the whole theory of persecution falls at once to the ground. For the object of the persecutor is to suppress one portion of the element of discussion: it is to determine the judgment by an influence other than reason; it is to prevent that freedom of enquiry which is the sole method we possess of arriving at truth. The persecutor never can be certain that he is not persecuting truth rather than error, but he may be quite certain that he is suppressing the spirit of truth. . . . Until the seventeenth century, every mental disposition which philosophy pronounces to be essential to a legitimate research was almost uniformly branded as a sin, and a large proportion of the most deadly intellectual vices were deliberately inculcated as virtues. It was a sin to doubt the opinions which had been instilled in childhood before they had been examined: it was a virtue to hold them with unwavering, unreasoning credulity. It was a sin to notice and develop to its full consequences every objection to these opinions; it was a virtue to stifle every objection as a suggestion of the devil. It was sinful to study with equal attention and with an indifferent mind the writings on both sides, sinful to resolve to follow the light of evidence wherever it might lead, sinful to remain poised in doubt between conflicting opinions, sinful to give only a qualified assent to indecisive arguments, sinful even to recognize the moral or intellectual excellence of opponents. In a word, there is scarcely a disposition that marks the love of abstract truth and scarcely a rule which reason teaches as essential for its attainment, that theologians did not, for centuries, stigmatize as offensive to the Almighty. By destroying every book that could generate discussion, by diffusing through every field of knowledge a spirit of boundless credulity, and, above all, by persecuting with atrocious cruelty those who differed from their opinions, they succeeded for a long period in almost arresting the action of the European mind, and in persuading men that a critical, impartial, and enquiring spirit was the worst form of vice. From this frightful condition Europe was at last rescued by the intellectual influences that produced the Reformation, by the teaching of those great philosophers who clearly laid down the conditions of enquiry, and by those bold innovators who, with the stake of Bruno and Vanini before their eyes,

dared to challenge directly the doctrines of the past. By those means the spirit of philosophy or of truth became prominent, and the spirit of dogmatism, with all its consequences, was proportionately weakened. As long as the latter spirit possessed an indisputable ascendency, persecution was ruthless, universal, and unquestioned. When the former spirit became more powerful, the language of anathema grew less peremptory. Exceptions and qualifications were introduced; the full meaning of the words was no longer realized; persecution became languid; it changed its character; it exhibited itself rather in a general tendency than in overt acts; it grew apologetical, timid, and evasive. In one age the persecutor burnt the heretic; in another, he crushed him with penal laws; in a third, he withheld from him places of emolument and dignity; in a fourth, he subjected him to the excommunication of society. Each stage of advancing toleration marks a stage of the decline of the spirit of dogmatism and of the increase of the spirit of truth.

On the other hand, men who have been deeply imbued with the spirit of earnest and impartial enquiry, will invariably come to value such a disposition more than any particular doctrines to which it may lead them; they will deny the necessity of correct opinions; they will place the moral far above the dogmatic side of their faith; they will give free scope to every criticism that restricts their belief; and they will value men according to their acts, and not at all according to their opinions. The first of these tendencies is essentially Roman Catholic. The second is essentially rationalistic. . . .

Sooner or later the spirit of truth will be regarded in Christendom, as it was regarded by the philosophers of ancient Greece, as the loftiest form of virtue. We are indeed still far from that point. A love of truth that seriously resolves to spare no prejudice and accord no favor, that prides itself on basing every conclusion on reason or conscience, and on rejecting every illegitimate influence, is not common in one sex, is almost unknown in the other, and is very far indeed from being the actuating spirit in all who boast most loudly of their freedom from prejudice. Still it is to this that we are steadily approximating.

If our private judgment is the sole rule by which we should form our opinions, it is obviously the duty of the educator to render that judgment as powerful and at the same time to preserve it as unbiased, as possible. To impose an elaborate system of prejudices on the yet undeveloped mind, and to entwine those prejudices with all the most hallowed associations of childhood, is most certainly contrary to the spirit of the doctrine of private judgment. A prejudice may be true or false; but as private judgment is to decide between opinions, it is, as far as that judgment is concerned, necessarily an evil and especially when it appeals strongly to the affections. The sole object of man is not to search for truth; and it may be, and undoubtedly often is, necessary for other pur-

poses to instill into the mind of the child certain opinions, which he will have hereafter to reconsider. Yet still it is manifest that those who appreciate this doctrine of private judgment as I have described it, will desire that those opinions should be few, that they should rest as lightly as possible upon the mind, and should be separated as far as possible from the eternal principles of morality.

The fable of the ancient Cebes is still true. The woman even now sits at the portal of life, presenting a cup to all who enter in, which diffuses through every vein a poison that will cling to them forever. The judgment may pierce the clouds of prejudice; in the moments of her strength she may even rejoice and triumph in her liberty; yet the conceptions of childhood will long remain latent in the mind, to reappear in every hour of weakness, when the tension of the reason is relaxed, and when the power of old association is supreme. It is not surprising that very few should possess the courage and the perseverence to encounter the mental struggle. The immense majority either never examine the opinions they have inherited, or examine them so completely under the dominating influence of the prejudice of education, that whatever may have been the doctrines they have been taught, they conclude that they are so unquestionably true that nothing but a judicial blindness can cause their rejection. Of the few who have obtained a glimpse of higher things, a large proportion cannot endure the conflict to which old associations and, above all, the old doctrine of the guilt of error, lends such a peculiar bitterness; they stifle the voice of reason, they turn away from the path of knowledge, they purchase peace at the expense of truth. This is, indeed, in our day, the most fatal of all the obstacles to enquiry. . . . There is a period in the history of the enquirer when old opinions have been shaken or destroyed, and new opinions have not yet been formed; a period of doubt, of terror, and of darkness, when the voice of the dogmatist has not lost its power, and the phantoms of the past still hover over the mind; a period when every landmark is lost to sight, and every star is veiled, and the soul seems drifting helpless and rudderless before the destroying blast. It is in this season of transition that the temptation to stifle reason possesses a fearful power. It is when contrasting the tranquility of past assurance with the feverish paroxysms that accompany enquiry, that the mind is most likely to abandon the path of truth. It is so much easier to assume than to prove; it is so much less painful to believe than to doubt; there is such a charm in the repose of prejudice, when no discordant voice jars upon the harmony of belief; there is such a thrilling pang when cherished dreams are scattered, and old creeds abandoned, that it is not surprising that men should close their eyes to the unwelcome light. Hence the tenacity exhibited by systems that have long since been disproved. Hence the oscillation and timidity that characterize

the research of most, and the indifference to truth and the worship of expediency that cloud the fair promise of not a few.

He who, believing that the search for truth can never be offensive to the God of truth, pursues his way with an unswerving energy, may not unreasonably hope that he may assist others in their struggle towards the light, and may in some small degree contribute to that consummation when the professed belief shall have been adjusted to the requirements of the age, when the old tyranny shall have been broken, and the anarchy of transition shall have passed away.

The pressure of the general intellectual influences of the time determines the predispositions which ultimately regulate the details of belief; and though all men do not yield to that pressure with the same facility, all large bodies are at last controlled. A change of speculative opinion does not imply an increase of the data upon which those opinions rest, but a change of the habits of thought and mind which they reflect. Definite arguments are the symptoms and pretexts, but seldom the causes of change.

SECTION III.

LACONICS OF TOLERATION AND FREE INQUIRY

Freethinking pioneers all reforms.—Rahel.

The liberty of the press is a blessing.—Johnson.

Freethinking leads to free inquiry.—Abner Kneeland.

The freedom of the press should be inviolate.—J. Q. Adams.

The people should be masters of the press, not its servant.—Watterson.

The man who will not investigate both sides of a question is dishonest. —Lincoln.

The press is the royal seat on which knowledge is sovereign.—J. H. Hammond.

The liberty of the press is essential to a free government.—Sir W. Blackstone.

I believe rather in drawing men toward good than shutting them out from bad.—Zola.

The freethinker should be the free speaker and the free actor.—Mrs. Mary E. Tillotson.

The liberty of the press is the highest safeguard to all free government.—E. D. Baker.

If I have spoken evil, bear witness of the evil; but if well, why smitest thou me?—John, 18:23.

Thought cannot be too free; be a freethinker, not in name, but in reality.—C. P. Bronson.

A freethinker is a man who says, "I will find out what is truth, and defend it."—H. L. Green.

The Liberty of the Press—it is as the air we breathe: if we have it not, we die.—Old Political Toast.

Many a keen, capable, alert freethinker does not dare speak a word of his real opinions.—Leland.

Freedom of speech produces excellent writers, and encourages men of fine genius.—P. L. Gordon.

In all periods of human development, freethinking has been painted as a crime.—Matilda J. Gage.

The press is the mistress of intelligence, and intelligence is mistress of the world.—Benjamin Constant.

No law shall be enacted to restrain the liberty of speech or of the press. —Kamehameha V. (King of Hawaii).

The freethinker loves liberty of thought and expression, for it brings fact and truth to the front.—T. L. Brown.

Let us guard the liberty of the press as watchfully as the dragon did the Hesperian fruit.—Lord Loughborough.

The Reformation was cradled in the printing-press, and established by no other instrument.—Agnes Strickland.

Man has a right to think all things, speak all things, write all things, but not to impose his opinions.—Machiavelli.

Do not talk about disgrace from a thing being known when the disgrace is that the thing should exist.—Falconer.

He that will not reason is a bigot; he that cannot reason is a fool; he that dares not reason is a slave.—Sir William Drummond.

The freedom of the press is one of the bulwarks of liberty, and can never be restrained but by despotic governments.—G. Mason.

The want of liberty is witnessed in hushed voices and low whisperings; liberty bursts into unshackled eloquence.—Miss Lucy Barton.

It is an evil when the guardianship of virtue devolves upon well-meaning dullness, which makes it ridiculous.—Parton's "Voltaire."

Great men are placed upon the scaffold for their peccadillos, and little men are often enthroned for servility or good intentions.—Wm. T. Hughes.

If there is anything in the universe that can 't stand discussion, let it crack.—Wendell Phillips, in Carlos Martyn's biography of him. Quoted from memory.

Bishop Burnett said he had long looked on liberty of conscience as one of the rights of human nature antecedent to society.—"Hist. Own Time," p. 216.

Let it be impressed upon your minds, let it be instilled in your children, that the liberty of the press is the palladium of all the civil, political, and religious rights.—Junius.

To argue against any breach of Liberty from the ill use that may be made of it, is to argue against liberty itself, since all is capable of being abused.—Lord Lyttleton.

The country must look mainly to the press for the reform of evils, the correction of abuses, and the preservation, in an endurable shape, of free institutions.—H. J. Raymond.

All truth is safe, and nothing else is safe; and he who keeps back the truth or withholds it from men, from motives of expediency, is either a coward or a criminal, or both.—Max Müller.

The persecuting spirit has its origin *morally* in the disposition of man to domineer over his fellow creatures; *intellectually*, in the assumption that one's own opinions are infallibly correct.—John Fiske.

There are no privileges of the press that are not the privileges of the people; any citizen has the right to tell the truth, speak it, or write it, for his own advantage, and the general welfare.—Murat Halstead.

It is well to consider a little whether in our zeal to suppress one form of immorality, we may not be forging chains which in time may be fastened upon the neck of some great but unpopular truth.—Loring Moody.

Let the history of our practice of book-burning serve to help us to keep our minds open with regard to anomalies which may still exist among us, descended from as suspicious an origin, and as little supported by reason. —Farrar.

Take away the liberty of the press, and we are, all at once, stripped of the use of our noblest faculties: our souls themselves are imprisoned in a dark dungeon; we may breathe, but we cannot be said to live.—J. Thomson.

Reason is the crucible in which is determined the value of ideas, and no one who was ever truly great has accepted ideas which were not tested in the crucible of reason, or rejected those which stood the test.—R. Ward Hemens.

Surely the individual who devotes his time to fearless and unrestricted inquiry into the grand questions arising out of our moral nature, ought rather to receive the patronage than encounter the vengeance of an enlightened legislation.—Percy B. Shelley.

Save good faith *there is no limit to criticism* concerning a man's actions or his creations. "God forbid," exclaimed Baron Alderson, "that you should not be allowed to comment on the conduct of all mankind, provided you do it justly and honorably."—Townshend.

History is full of religious wars; but, we must take care to observe, it was not the multiplicity of religions that produced these wars, it was the intolerating spirit which animated that which thought she had the power of governing.—Montesquieu, "Persian Letters," let. 65.

The power of free discussion is the right of every subject of this country. It is a right to the fair exercise of which we are indebted more than to any other that was ever claimed by Englishmen. All the blessings we at present enjoy might be ascribed to it.—Lord Kenyon.

Upon public abuses, the press turns the collected flames of its sunglass, and scorches them to cinders. Against the countless wrongs, the injustice and oppressions of individuals, it wages perpetual war, and is a better guarantee against their permanence than any institutions could be.—Manton Marble.

Let us all seek truth as if none of us had possession of it. The opinions which to this day have governed the earth, produced by chance, disseminated in obscurity, admitted without discussion, credited from

a love of novelty and imitation, have in a manner clandestinely usurped their empire.—Volney's "Ruins."

But I will demand if that man is not rather entitled to respect than the discountenance of society, who, by disputing a received doctrine, either proves its falsehood and inutility (thereby aiming at the abolition of what is false and useless) or gives to its adherents an opportunity to establish its excellence and truth. Surely this can be no crime.—Shelley.

The great truth has finally gone forth to all the ends of the earth that man shall no more render account to man for his belief, over which he has himself no control. Henceforward nothing shall prevail upon us to praise or to blame any one for that which he can no more change than he can the hue of his skin or the height of his stature.—Lord Brougham.

A State is good, bad, or indifferent according to the directness and correctness with which it brings to an expression the best reason and conscience of the people and embodies their judgment in institutions and laws. The State therefore lives by deliberation and discussion, and by tacit or overt expressions of the major opinion.—Prof. W. G. Sumner, of Yale.

Of what use is freedom of thought, if it will not produce freedom of action, which is the sole end, how remote soever in appearance, of all objections against Christianity? And therefore the freethinkers consider it an edifice where all the parts have such a mutual dependence on each other, that, if you pull out one single nail, the whole fabric must fall to the ground.—Swift.

Much has been accomplished; more than people are aware, so gradual has been the advance. How noiseless is the growth of corn! Watch it night and day for a week, and you will never see it growing; but return after two months, and you will find it all whitening for the harvest; such, and so imperceptible in the stages of their motion, are the victories of the press.—De Quincey.

There is tonic in the things that men do not love to hear; and there is damnation in the things that wicked men love to hear. Free speech is to a great people what winds are to oceans and malarial regions, which waft away the elements of disease, and bring new elements of health; and where free speech is stopped miasma is bred, and death comes fast.—Henry Ward Beecher.

The power of communication of thoughts and opinions is the gift of God, and the freedom of it is the source of all science, the first fruits and the ultimate happiness of society; and therefore it seems to follow that human laws ought not to interpose, nay, cannot interpose, to prevent the communication of sentiments and opinions in voluntary assemblies of men.—Lord Chief Justice Eyre, 1794.

Without free speech no search for truth is possible; without free speech

no discovery of truth is useful; without free speech progress is checked and the nations no longer march forward toward the nobler life which the future holds for man. Better a thousand fold abuse of free speech than denial of free speech. The abuse dies in a day, but the denial slays the life of the people and entombs the hope of the race.—Bradlaugh.

It is dangerous in any government to say to a nation, *Thou shalt not read.* This is now done in Spain, and was formerly done under the old government of France, but it served to procure the downfall of the latter, and is subverting that of the former, and it will have the same tendency in all countries, because Thought, by some means or other, is got abroad in the world, and cannot be restrained though reading may.—Thomas Paine.

The press is the steam-engine of moral power, which, directed by the spirit of the age, will eventually crush imposture, superstition, and tyranny. The liberty of the press is the true measure of all other liberty, for all freedom without this must be merely nominal; to stifle the nascent thought is a moral infanticide, a treason against human nature. What can a man call his own, if his thought does not belong to him?—Chatfield.

Thou canst not shape another's mind to suit thine own body,
Think not, then, to be furnishing his brain with thy special notions.
Charity walketh with a high step, and stumbleth not at a trifle;
Charity hath keen eyes, but the lashes half conceal them;
Charity is praised of all, and fear not thou that praise,
God will not love thee less because men love thee more.
—Martin Farquhar Tupper.

. . . To subdue the unconquerable mind,
To make one reason have the same effect
Upon all apprehensions; to force this,
Or that man, just to think, as thou and I do;
Impossible! unless souls were alike
In all, which differ now as human faces.
—Rowe, "Tamerlane," act iv.

What then remains? The liberty of the press only—that sacred palladium, which no influence, no power, no minister, no government, which nothing, but the depravity, or folly, or corruption of a jury, can ever destroy. . . . But the facts are too recent in your mind not to show you that the liberty of the press and the liberty of the people sink and rise together; that the liberty of speaking and the liberty of acting have shared exactly the same fate.—John B. Curran.

While there are bad-hearted men in the world, and those who wish to make falsehood pass for truth, they will ever discover themselves and their counsel, by their impatience of contradiction, their hatred of those who differ from them, their wish to suppress inquiry, and their bitter

resentment, when what *they* call truth has not been handled with the delicacy and niceness which it was never anything but falsehood that required or needed.—Taylor's "Diegesis."

I say discuss all and expose all—I am for every topic openly;
I say there can be no safety for These States without innovators—without free tongues, and ears willing to hear the tongues;
And I announce as a glory of These States, that they respectfully listen to propositions, reforms, fresh views and doctrines, from successions of men and women.
Each age with its own growth!—Walt. Whitman.

In spite of Herbert Spencer's opinion that "belief cannot really be destroyed or changed by coercion from without," it remains incontestably true that the capacity for thought is dependent upon exercise, as Mill has so conclusively shown, and, therefore, the suppression of the profession of belief, if long continued, inevitably tends to the destruction of the assailed belief by rendering the faculties of reason sluggish and ineffective through the non-use which is the result of fear.—Edwin C. Walker.

Doubts have been cast upon the ultimate success of the press itself; it may be, it is said, the vehicle of truth, and it may be the engine of misrepresentation. Grant that the press sometimes misleads the people, and betrays them to misjudge their true interest; it leads them at least to exercise their judgment, even if it lead them to judge wrong; that misjudgment is but a slight loss in comparison with the immense boon of having led them to use their judgments and their minds at all.—G. W. Burnap.

Our Yankee cousins stamped out slavery; one day they will unlock the gate and disimprison Liberty. All books of any note have been persecuted. The "Age of Reason" was put down by the police, and men gathered behind hedges to read by stealth copies they had brought with their united pence. If the Bible itself were, by some magic turn of Fortune's wheel, to fall again under the ban, it would be eagerly read, where it is now used in English parlor windows as a convenient stand for the flower-pot.—Carrington.

There was once a discussion between Mr. Pitt and some of his friends on what were the qualities most needed in politics. Was it knowledge, patience, courage, eloquence, or what was it? Mr. Pitt said, "*Patience.*" We liberals have tried patience for twenty years. I vote we now try "courage." I say again, don't let us be afraid of our own shadows. We have principles we believe in, we have faith, we have great traditions, and we have a great cause behind us and before us. Let us not lose courage and straightforwardness.—John Morley.

Error of opinion may be tolerated where reason is left free to combat it.—Jefferson.

Question with boldness even the existence of a God, for if there be one he must more approve the homage of reason than of blindfold fear.—*Ibid.*

The licentiousness of the press produces the same effect which the restraint of the press was intended to do; if the restraint prevent things from being told, the licentiousness of the press prevents things from being believed when they are told.—*Ibid.*

It is obvious, there is no certain and universal rule for determining *a priori*, whether an opinion be useful or pernicious; and that if any person be authorized to decide unfettered by such a rule, that person is a despot. To decide what opinions shall be permitted, and what prohibited, is to choose opinions for the people, since they cannot adopt opinions which are not suffered to be presented to their minds. Whoever chooses opinions for the people, possesses absolute control of their actions, and may wield them, for his own purposes, with perfect security —*Westminster Review.*

The Liberty of the Press is the birthright of a Briton, and is justly esteemed the firmest bulwark of the liberties of this country. . . . I rejoice that liberty will have a resting place, a sure asylum in America, from the persecution of almost all the princes of the earth. . . . [Under the laws against dissenters] a Mercenary informer or a blind zealot may bring under the lash of the law men who do honor to the age in which we live, and the most abandoned of our species have it now in their power to prosecute virtue and genius when exerted for the benefit of mankind.—John Wilkes. From Rae's "Wilkes S. and F."

Whosoever designs the change of religion in a country or government, by any other means than that of a general conversion of the people, or the greatest part of them, designs all the mischiefs to a nation that use to usher in or attend the two greatest distempers of a state, civil war or tyranny—which are violence, oppression, cruelty, rapine, intemperance, injustice; and, in short, the miserable effusion of human love, and the confusion of laws, orders, and virtues among men. Such consequences as these, I doubt, are something more than the disputed opinions of any man, or any particular assembly of men, can be worth.—Sir William Temple, Vol. I., page 171.

A free press is the parent of much good in the state. But even a licentious press is far less evil than a press that is enslaved, because both sides may be heard in the former case, but not in the latter. A licentious press *may* be an evil, an enslaved press *must* be so; for an enslaved press may cause error to be more current than wisdom, and wrong more powerful than right. A licentious press cannot effect these things, for if it give the poison, it gives also the antidote, which an enslaved press withholds. An enslaved press is doubly fatal; it not only takes away the true light, for in that case we might stand still, but it sets up a false one, that decoys us to our destruction.—Rev. C. C. Colton.

No matter whose the lips that would speak, they must be free and ungagged. Let us believe that the whole of truth can never do harm to the whole of virtue; and remember that in order to get the whole of truth, you must allow every man, right or wrong, freely to utter his conscience, and protect him in so doing. Entire unshackled freedom for every man's life, no matter what his doctrine—the safety of free discussion no matter how wide its range. The community which dares not protect its humblest and most hated member in the free utterance of his opinions, no matter how false or hateful, is only a gang of slaves.—Wendell Phillips.

" I think heresy hunting one of the most despicable pursuits in which the human mind can engage," says Dean Wilford L. Robbins of the General Theological Seminary of New York. The heresy hunters are the true muck-rakers, and there are all sorts of them. The chiefest are the hunters for heresy in religion, and they have their little imitators in those who hunt for heretics in morals, who are called free lovers; in industry, who are called scabs; in medicine, who are called quacks; in economics, who are called Anarchists and Socialists. And progress in church and state, in morals, medicine, industry, and so forth, is mostly due to the heretics who go against the organization.—*Truth Seeker.*

Give me but the Liberty of the Press, and I will give to the minister a venal House of Peers—I will give him a corrupt and servile House of Commons—I will give him the full sway of the patronage of office—I will give him the whole host of ministerial influence—I will give him all the power the place can confer upon him to purchase up submission and overawe resistance—and yet, armed with the Liberty of the Press, I will go forth to meet him undismayed—I will attack the mighty fabric he has reared, with that mightier engine—I will shake down from its height corruption, and bury it amidst the ruins of the abuses it was meant to shelter.—Sheridan, 15 "Parliamentary Debates," 341.

Men in earnest have no time to waste in patching fig leaves for the naked truth.—Lowell.

They are slaves who fear to speak
For the fallen and the weak;
They are slaves who will not choose
Hatred, scoffing, and abuse
Rather than in silence shrink
From the truth they needs must think;
They are slaves who dare not be
In the right with two or three.
—*Ibid.*

Whatever else may be intended by the phrase "freedom of the press," or "liberty of the press," it means the freedom or liberty of those who conduct the press. . . . The liberty of the press is connected with natural liberty. The use and liberty of speech were antecedent to Magna Charta, and printing is only a more extensive and improved kind of speech. The liberty of the press therefore, properly understood, is the personal liberty of the writer to express his thoughts in the more improved way invented by human ingenuity in the form of press. The liberty of press consists in the right to publish with impunity truth with good motives and for justifiable ends whether it respects governments, magistracy, or individuals.—Townshend on "Libel and Slander."

Liberty of thought and speech have, after a prolonged struggle, been conceded, although there may be found people who, on their own pet failings, even yet refuse to allow the right unreservedly. Liberty of speech is justified on three grounds: First, if the opinion be true, the world reaps a benefit to be derived from the truth; secondly, if the opinion be false, truth is the more strengthened by contest with it, and lastly, if it be partly true and partly false, our opinions, if they do not entirely lose their weakness, at any rate gain the corrections which have greatly improved them. The commencement of the struggle was due to religion, and the man who brought the long fight to a close and finally setled that matter was Charles Bradlaugh.—J. P. Poole, *Westminster Review.*

It is apprehended that arbitrary power would steal in upon us, were we not careful to prevent its progress, and were there not an easy method of conveying the alarm from one end of the kingdom to another. The spirit of the people must frequently be roused, in order to curb the ambition of the court, and the dread of rousing this spirit must be employed to prevent that ambition. Nothing [else] is so effectual to this purpose as the liberty of the press, by which all the learning, wit, and the genius of the nation may be employed on the side of freedom, and every one be animated to its defence. As long, therefore, as the republican part of our government can maintain itself against the monarchical, it will naturally be careful to keep the press open, as of importance to its own preservation.—Hume, "Essays," Vol. I., page 23.

Let it not be recorded in our own memories, that in this moment of the Eternity, when we who were named by our names, flitted across the light, we were afraid of any fact, or disgraced the fair Day by a pusillanimous preference of our bread to our freedom. What is the scholar what is the man *for* but for hospitality to every new thought of his time? Have you leisure, power, property, friends? you shall be the asylum and patron of every new thought, every unproven opinion, every un-

tried project, which proceeds out of good-will and honest seeking. All the newspapers, all the tongues of to-day, will, of course, at first defame what is noble; but you who hold not of to-day, not of the times, but of the Everlasting, are to stand for it; and the highest compliment man ever receives from Heaven, is the sending to him its disguised and discredited angels.—Emerson (?).

To suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all [religious] liberty; because he being, of course, judge of that tendency; will make his [fallible] opinions the rule of judgment, and approve or condemn the sentiments of others, only as they shall square with or differ from his own. It is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order. And, finally, that truth is great and will prevail, if left to herself. That she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapon, free argument and debate.—Act of Virginia establishing Religious Freedom.

Persecution is unwarrantable in any cause; yet it may most naturally be expected in favor of a bad one. . . .

For, though calumny and slander, when affecting our fellow-men, are punishable by law; for this plain reason, because an injury is done, and a damage sustained, and a reparation therefore due to the injured party; yet, this reason cannot hold where God and the Redeemer are concerned; who can sustain no injury from low malice and scurrilous invective; nor can any reparation be made to them by temporal penalties, for these can work no conviction or repentance in the mind of the offender; and if he continue impenitent and incorrigible, he will receive his condign punishment in the day of final retribution. Affronting Christianity, therefore, does not come under the magistrate's cognizance, in this particular view, as it implies an offence against God and Christ.—Phillip Furneaux, 1771.

I am conscious how many wars heresies have occasioned; but was it not because we were desirous of persecuting heresies? The man who believes with sincerity, believes also with more firmness, when you would oblige him to change his creed, without at the same time convincing him, and becomes obstinate; his obstinacy kindles his zeal, his zeal inflames him. You wish to make a convert; you have made a fanatic and a madman. Men ask nothing more for their opinions than freedom; if you would take it from them, you put your arms into their hands;

grant it them, they will remain tranquil, as do the Lutherans at Strasbourgh. It is then the unity of religion to which we would compel men, and not the multiplicity of opinions which we tolerate, that occasions commotions and civil wars. The Pagans tolerated every opinion, the Chinese do the same; Prussia excludes no sect, Holland includes all, and these nations have never experienced a religious war. England and France have wished to have but one religion, and London and Paris have seen the blood of their inhabitants flowing in streams.—Turgot, "Le Conciliateur."

Dissent, after having long been an unquestionable crime, has ended by becoming almost a cornerstone of the glory of our civilization.—James Patterson.

Quetelet said ("Sur l' homme," 289) that the press tends to deprive revolutions of their violence by hastening the period of reaction. . . . One great advantage of a free press is, that it tends to disperse the dangers that culminate in sedition. Bacon said that the surest way to prevent sedition, if the times do bear it, is to take away the matter of them. A great writer has also observed, that "Violence exerted towards opinions, which falls short of extermination, serves no other purpose than to render them more known, and ultimately to increase the zeal and number of their abettors. When public discontents are allowed to vent themselves in reasoning and discourse, they subside into a calm; but their confinement in the bosom is apt to give them a fierce and deadly tincture. The reason of this is obvious. As men are seldom disposed to complain till they at least imagine themselves injured, so there is no injury which they will remember so long, or resent so deeply, as that of being threatened into silence."—*Ibid.*

For my part, I am certain that God hath given us reason to discover between truth and falsehood, and he that makes not this use of it, but believes things he knows not why, I say it is chance that he believes the truth and not by choice, and I cannot but fear that God will not accept this sacrifice of fools.—Chillingsworth.

But you that would not have men follow their reason, what would you have them follow? Their passions, or pluck out their eyes, and go blindfold? No, you say; you would have them follow authority. In God's name, let them; we also would have them follow authority; for it is upon the authority of universal tradition that we would have them believe Scripture. But then, as for the authority which you would have them follow, you will let them see reason why they should follow it. And is not this to go a little about—to leave reason for a short term, and then to come to it again, and to do that which you condemn in others? It being indeed a plain impossibility for any man to submit his reason

but to reason; for he that doth it to authority, must of necessity think himself to have greater reason to believe that authority.—Rev. William Chillingsworth.

Experience teaches that the sword, the faggot, exile, and proscriptions are better calculated to irritate than to heal a disease, which, having its source in the mind, cannot be relieved by remedies that act only on the body. The most efficacious means are sound doctrines and repeated instructions, which make a ready impression when inculcated with mildness. Everything else bows to the sovereign authority of the magistrate and the prince; but religion alone is not to be commanded.

If Epicurus, whose system has been so much decried by other philosophers, has said of the sage, that if he were shut up in the brazen bull of Phalaris, he would not fail to declare: "This fire affects me not, it is not I that burn"; do we imagine that less courage was conspicuous in those who by various torments were put to death a century ago, or that less will be displayed by future martyrs, if persecution be continued? What was said and done by one of them, when he was fastened to the stake in order to be burned, is worthy our notice. Being upon his knees, he began to sing a psalm, which the smoke and the flames could scarcely interrupt; and as the executioner, for fear of terrifying him, lighted the fire behind, he turned and said: "Come and kindle it before me; if fire could have terrified me, I should not be here; it depended on myself to avoid it."—De Thou.

The light of knowledge may be painful to those unaccustomed to it, as unmodified sunlight is to the eyes, and many may prefer to spend their days in boudoirs with latticed windows and colored lights, but science, to which we owe such far-reaching material and intellectual advancement, the glory of our generation, cannot stop on their account, and no demand of this sort has any prospect of winning general approval. What is it, then, that makes the results of modern investigation appear dangerous in the eyes of so many men?. Can the truth, as such, be harmful, and therefore objectionable, supposing that we had the truth, and that it opposed all traditions?

The answer will be, no; but the remark will be added that the truth is no staff for halting souls, and that dazzled eyes cannot endure it. Consequently, the harm lies not in scientific knowledge, but in the weakness of souls and eyes. Here, then, is where the mistake lies, and where relief must be administered. It is not the new truth which threatens danger, but the old error, in which the human mind has been kept so long, and which some would like to retain longer. The danger is that all our institutions, home, school, church, public life, social order, and systems of government, being based on and adapted to these old errors,

should fail to perceive that it is their business gradually to adapt themselves to the better knowledge. Only on condition that they do this can the widening of the chasm and the violent collapse of what has become antiquated be avoided.—Dr. Ernst Krause, in "Unshackling of the Spirit of Inquiry," *Open Court*, 1900.

The liberty of the press is a very great advantage and security to our public liberty.—Lord Mansfield.

What bloodshed and confusion have been occasioned from the reign of Henry IV., when the first penal statutes were enacted, down to the Revolutions in this kingdom, by laws made to force conscience! There is nothing certainly more unreasonable, more inconsistent with the rights of human nature, more contrary to the spirit and precepts of the Christian religion, more iniquitous and unjust, more impolitic, than persecution. It is against natural religion, revealed religion, and sound policy.

Sad experience, and a large mind, taught that great man, the President de Thou, this doctrine. Let any man read the many admirable things, which, though a papist, he hath dared to advance upon the subject, in the dedication of his history to Henry IV. of France (which I never read without rapture) and he will be fully convinced, not only how cruel, but how *impolitic*, it is to persecute for religious opinions.

Make a law to render men incapable of offices; make another to punish them (for it is admitted on all hands that the defendant in the cause before your lordships is prosecutable for taking the office upon him) if they accept; if they refuse, punish; if they say yes, punish; if they they say no, punish. My lords, this is a most exquisite dilemma, from which there is no escape; it is a trap a man cannot get out of; it is as bad persecution as that of Procrustes; if they are too short, stretch them; if they are too long, lop them.—*Ibid*, in "Debates on case of Mr. Evans."

Civil governors go miserably out of their proper province whenever they take upon them the care of truth, or the support of any doctrinal points. They are not judges of truth, and if they pretend to decide about it, they will decide wrong. It is superstition, idolatry, and nonsense, that civil power at present supports almost everywhere, under the idea of supporting sacred truth, and opposing dangerous error.

All the experience of past time proves that the consequence of allowing civil power to judge of the nature and tendency of doctrines, must be making it a hindrance to the progress of truth, and an enemy to the improvement of the world. Anaxagoras was tried and condemned in Greece for teaching that the sun and stars were not deities, but masses of corruptible matter. Accusations of the like kind contributed to the death of Socrates. The threats of bigots, and the fear of persecution,

prevented Copernicus from publishing, during his lifetime, his discovery of the true system of the world. Galileo was obliged to renounce the doctrine of the motion of the earth, and suffered a year's imprisonment for having asserted it. And so lately as the year 1742 the best commentary on the first production of human genius (Newton's "Principia") was not allowed to be printed at Rome, because it asserted this doctrine; and the learned commentators were obliged to prefix to their work a declaration that on this point they submitted to the decisions of the supreme pontiffs. Such *have* been, and such (while men continue blind and ignorant) will always be the consequence of the interposition of civil governments in matters of speculation.—Price, "Importance of American Revolution," page 24.

"English freedom does not depend upon the executive government nor upon the administration of justice, nor upon any one particular or distinct part, nor even upon forms, so much as it does on the general freedom of speech and of writing. Speech ought to be completely free. The press ought to be completely free, when any man may write and print what he pleased, though he is liable to be punished if he abuse that freedom. This is perfect freedom. If this is necessary with regard to the press, it is still more so with regard to speech. I have never heard of any danger arising to a free state from the freedom of the press or freedom of speech; so far from it I am perfectly clear, that a free state cannot exist without both. It is not the law that is to be found in books that constitutes—that has constituted, the true principle of freedom in any country at any time. No, it is the energy, the boldness of a man's mind which prompts him to speak not in private, but in large and popular assemblies, that constitutes, that creates in a state the spirit of freedom. This is the principle that gives life to liberty; without it the human character is a stranger to freedom. As a tree that is injured at the root, with the bark taken off the branches, may live for a while, and some sort of blossom may still remain, but it will soon wither, decay, and perish, so take away the freedom of speech or of writing, and the foundation of all the freedom is gone. You will then fall and be degraded and despised by all the world for your weakness and your folly in not having taken care of that which conducted you to all your fame, your greatness, your opulence and prosperity.—Rt. Hon. C. J. Fox. (1795), 32 Parl. Hist., 419.

It is not to the point to say that the views of Lucretius and Bruno, of Darwin and Spencer, may be wrong. Here I should agree with you, deeming it indeed certain that these views will undergo modification. But the point is, that whether right or wrong, we claim the right to discuss them. For science, however, no exclusive claim is here made; you

are not urged to erect it into an idol. The inexorable advance of man's understanding in the path of knowledge, and those unquenchable claims of his moral and emotional nature which the understanding can never satisfy, are here equally set forth. The world embraces not only a Newton, but a Shakespeare—not only a Boyle, but a Raphael—not only a Kant, but a Beethoven—not only a Darwin but a Carlyle. Not in each of these, but in all, is human nature whole. They are not opposed, but supplementary—not only [not] mutually exclusive, but reconcilable. And if, unsatisfied with them all, the human mind, with the yearning of a pilgrim for his distant home, will still turn to the mystery from which it has emerged, seeking to fashion it as to give unity to thought and faith; so long as this is done, not only without intolerance or bigotry of any kind, but with the enlightened recognition that ultimate fixity of conception is here unattainable, and that each succeeding age must be held free to fashion the mystery in accordance with its own needs—then, casting aside all the restrictions of materialism, I would affirm this to be a field for the noblest exercise of what—in contrast with the *knowing* faculties—may be called the *creative* faculties of man. Here, however, I touch a theme too great for me to handle, but which will assuredly be handled by the loftiest minds when you and I, like streaks of morning cloud, shall have been melted into the infinite azure of the past.—Prof. John Tyndall.

I have learned from the ancient Fathers of the church, that nothing is more against religion than to force religion, and of St. Paul, the weapons of the Christian warfare are not carnal. And great reason; for human violence may make men counterfeit, but cannot make them believe, and is therefore fit for nothing but to breed form without and atheism within. Besides, if this means of bringing men to embrace any religion were generally used—as, if it may be justly used in any place by those who have power, and think they have truth, certainly they cannot with reason deny that it may be used in every place by those that have power as well as they, and think they have truth as well as they—what could follow but the maintenance, perhaps, of truth, but perhaps only the profession of it in one place, and the oppression in a hundred? What will follow from it but the preservation, peradventure, of unity, but, peradventure, only of uniformity, in particular states and churches; but the immortalizing the greater and more lamentable divisions of Christendom and the world? And, therefore, what can follow from it, but perhaps, in the judgment of carnal policy, the temporal benefit and tranquility of temporal states and kingdoms, but the infinite rejudice, if not the desolation, of the kingdom of Christ?

O that our ecclesiastical orators of every sect would apply themselves, with all the strength of argument in their power, to the confounding of

men's errors! But let them spare their persons, and not supply their want of reasons by instruments of force, which belong to another jurisdiction, and look ill in the hands of churchmen. Let them not call the magistrate's authority to aid their eloquence, or learning; lest, perhaps, while they pretend love for the truth, their intemperate zeal, breathing but intolerance, betray their ambition, and their desire of dominion.—Benj. Brook, in "History of Religious Liberty."

One of the greatest blessings we enjoy, one of the greatest blessings a people can enjoy, is liberty; but every good in this life has its alloy of evil; licentiousness is the alloy of liberty; it is the ebullition, and excrescence; it is a speck upon the eye of the political body, which I can never touch but with a gentle, with a trembling, hand, lest I destroy the body, lest I injure the eye upon which it is apt to appear. There is such a connection between licentiousness and liberty that it is not easy to correct the one without dangerously wounding the other: it is extremely hard to distinguish the true limit between them; like a changeable silk, we can easily see there are two different colors, but we cannot easily discover where the one ends or where the other begins.

We are told that Augustus, after having established his empire, restored order in Rome by restraining licentiousness. God forbid we should in this country have order restored or licentiousness restrained, at so dear a rate as the people of Rome paid for it to Augustus.

Let us consider that arbitrary power has seldom or never been introduced into any country at once. It must be introduced by slow degrees, and as it were step by step, lest the people should see its approach. The barriers and fences of the people's liberty must be plucked one by one, and some plausible pretenses must be found for removing or hoodwinking, one after another, those sentries who are posted by the constitution of a free country for warning the people of their danger. When these preparatory steps are once made, the people may then indeed, with regret, see slavery and arbitrary power making long strides over their lands; but it will be too late to think of preventing or avoiding the impending ruin.

The stage and the press are two of our out-sentries; if we remove them, if we hoodwink them, if we throw them into fetters, the enemy may surprise us.—Lord Chesterfield, Miscellaneous Works by "Matty," vol. IV.

. . . And is not this a Crime of the same nature with the *Indices expurgatorii*, which all honest, wise, and pious men abhor? It is at best but an oblique Art, servant only to *Times*, *Parties*, and *Interests*, destructive to Learning and Ingenuity, to suppress Monuments of Reason used by their Adversaries, on whose side happily *Truth* is? The more noble and warrantable way is to abandon all such little and disingenu-

ous Tricks and Devices, and labour by all holy means and endeavours to suppress Vice. To punish and discountenance sin and sinners is more glorious, before God and man, than to padlock Presses; it being a shrewd sign that *Truth* is not on their side, that suppress the adverse Reasons. *Truth* is able to justifie itself, and acquire its own glory and reward of Ingenuity, and Christian Simplicity, when suppressing or expunging, betrays that we either distrust God for the maintenance of his own Truths, or that we distrust the Cause, or our selves, or our Abilities. . . .

But before this [1244 A. D.] we had no Charm nor Lock upon the Press; no Purgatory for Books; no *Limbus Patrum* for their Authors; we had no proper, real, and propitiatory Sacrifice in the Mass for the living and the dead, nor dry or demi-Communions; no *Conventicle* at *Trent;* no new Creed with 12 new Articles either of *Trent* or of *Johannes Baptista Posa*, a Spanish Jesuit, never heard of before, newly printed, newly come forth; no blotting out of the second Commandment; no dividing of the tenth Commandment into two, to amuse and cheat the People; no Doctrine of Infallibility, nor yet of Probability; no Penance Sacramental; no Satisfaction; no Sacramental Confession, as now used; no *Hurtado;* no *Filliucius;* no *Banny;* no *Lessius;* no *Escobar;* no *Jesuits Morals;* no power to depose Kings; no dissolving Oaths of Allegiance; no Gunpowder-Treasons, and an Illiad more of such damnable Errors and Heresies. I conclude therefore that it bears no shew that forbidding men to write tends to any good end, but really to the end to conceal the Truth, and to shew it to the World only under a Mask, or some deceitful Light.—Anon.

He who is for forcibly stopping the mouth of his opponent, or for burning any man at the stake, or thrusting him into prison, or exacting a pecuniary fine from him, or impairing his means of procuring an honest livelihood, or treating him scornfully, on account of his peculiar view on any subject, whether relating to God, man [or sex], to time or eternity, is under the dominion of a spirit of ruffianism or cowardice, or animated by that fierce intolerance which characterized Paul of Tarsus in his zeal to exterminate the heresy of Christianity. On the other hand, he who forms his opinions from the dictates of enlightened reason, and sincerely desires to be led into all truth, dreads nothing so much as the suppression of free inquiry—is at all times ready to give a reason for the hope that is in him—calmly listens to the objection of others—feels nothing of anger or alarm lest his foundation be swept away by the waves of opposition. It is impossible, therefore, for him to be a persecutor, or to call upon the strong arm of violence to put a gag into the mouth of any one, however heretical in his sentiments. In proportion as we perceive and embrace the truth, do we become meek, heroic, magnanimous, divine.

They may not talk of faith in God, or of standing on the eternal rock, who turn pale with fear or are flushed with anger when their cherished convictions are called in question, or who cry out: "If we let him thus alone, all men will believe on him, and the Romans shall come and take away both our place and nation." They know not what spirit they are of; the light that is in them is darkness, and how great that darkness! It was not Jesus that was filled with consternation, but his enemies, on account of the heresy of untrammelled thought and free utterance: "Then the high priest rent his clothes, saying, 'He hath spoken blasphemy; what further need have we of witnesses? Behold now ye have heard his blasphemy. What think ye?' They answered and said: 'He is guilty of death.' Then did they spit in his face, and buffeted him, and others smote him with the palms of their hands." So have ever behaved the pious advocates of error, such has ever been the treatment of the "blasphemous" defender of truth.—William Lloyd Garrison in his essay on "Free Speech and Free Inquiry."

At home, it [the liberty of the press] has, in truth, produced a gradual revolution in our government. By increasing the number of those who exercise some sort of judgment on public affairs, it has created a substantial democracy, infinitely more important than democratical forms which have been the subject of so much contest. So that I may venture to say, England has not only in its forms the most democratical government that ever existed in a great country, but in substance has the most democratical government that ever existed in any country—if the most substantial democracy be that state in which the greatest number of men feel an interest in expressing opinion upon political questions, and in which the greatest number of judgments and wills concur in influencing public measures.

In great monarchies, the press has always been considered as too formidable an engine to be intrusted to unlicensed individuals. But, in other continental countries, either by the laws of the state, or by long habits of liberality and toleration in magistrates, a liberty of discussion has been enjoyed, perhaps sufficient enough for most useful purposes. It existed, in fact, where it was not protected by law; and the wise and generous connivance of governments was daily more and more secured by the growing civilization of their subjects. In Holland, in Switzerland, in the imperial towns of Germany, the press was either legally or practically free. . . .

It is a curious fact that, in the year of the Armada, Queen Elizabeth caused to be printed the first gazettes that ever appeared in England; and I own when I consider that this mode of rousing a national spirit was then absolutely unexampled, that she could have no assurance of its efficacy from the precedents of former times, I am disposed to regard

her having recourse to it as one of the most sagacious experiments; one of the greatest discoveries of political genius, one of the most striking anticipations of future experience, that we find in history. I mention it to you to justify the opinion that I have ventured to state of the close connection of our national spirit with our press, even our periodical press. —Sir James Mackintosh, 1803.

Power may justly be compared to a great river: While kept within its due bounds, it is both beautiful and useful; but when it overflows its banks, it is then too impetuous to be stemmed; it bears down all before it, and brings destruction and desolation wherever it goes. If, then, this is the nature of power, let us at least do our duty, and like wise men, who value freedom, use our utmost care to support liberty, the only bulwark against lawless power, which, in all ages, has sacrificed to its wild lust and boundless ambition the blood of the best men that ever lived.

I hope to be pardoned, Sir, for my zeal upon this occasion; it is an old and wise caution, "That when our neighbor's house is on fire, we ought to take care of our own." For though, blessed be God, I live in a government where Liberty is well understood, and freely enjoyed, yet experience has shown us all—I am sure it has to me—that a bad precedent in one government is soon set up for an authority in another; and therefore I cannot but think it mine, and every [other] honest man's duty, that—while we pay due obedience to men in authority—we ought at the same time to be on our guard against power, wherever we apprehend that it may affect ourselves or our fellow subjects.

Men who injure and oppress the people under their administrations provoke them to cry out and complain, and then make that very complaint the foundation for new oppressions and prosecutions. I wish I could say there were no instances of this kind. But to conclude, the question before the court and you, gentlemen of the jury, is not of small or private concern; it is not the cause of a poor printer, nor of New York alone, which you are trying. No! it may, in its consequences, affect every freeman that lives under the British government, on the main of America. It is the best cause; it is the cause of liberty; and I make no doubt but your upright conduct, this day, will not only entitle you to the love and esteem of your fellow citizens, but every man who prefers freedom to a life of slavery will bless and honor you as men who have baffled the attempts of tyranny, and by an impartial and uncorrupt verdict have laid a noble foundation for securing to ourselves, our posterity, our neighbors, that which nature and the laws of our country have given us, a right—the liberty—both of exposing and opposing arbitrary power in these parts of the world at least, by speaking and writing the truth.—Andrew Hamilton, in his defense of John Peter Zenger.

Whoever persecutes a disagreeing person, arms all the world against himself, and all pious people of his own persuasion, when the scales of authority return to his adversary and attest his contradictory; and then what can he urge for mercy for himself or his party, that showeth none to others? If he says that he is to be spared because he believes true, but the other was justly persecuted because he was in error, he is ridiculous, for he is as confidently believed to be a heretic as he believes his adversary such, and whether he be or no, being the thing in question, of this he is not to be his own judge, but he that hath authority on his side will be sure to judge against him.

Either the disagreeing person is in error or not, but a true believer. In either of the cases, to persecute him is extremely imprudent. For if he be a true believer, then it is a clear case that we do open violence to God, and his servants, and his truth. If he be in error, what greater folly and stupidity than to give to error the glory of martyrdom, and the advantages which are accidentally consequent to a persecution? For as it was true of the martyrs, *Quoties morimur, toties nascimur*, and the increase of their trouble was the increase of their confidence and the establishment of their persuasions, so it is in all false opinions, for that an opinion is true or false is extrinsical or accidental to the consequents and advantages it gets by being afflicted. And there is a popular pity that follows all persons in misery, and that compassion breeds likeness of affections, and that very often produces likeness of persuasion, and so much the rather because there arises a jealousy and pregnant suspicion that they who persecute an opinion are destitute of sufficient arguments to confute it.

It is unnatural and unreasonable to persecute disagreeing opinions. Unnatural, for understanding being a thing wholly spiritual, cannot be restrained, and therefore neither punished by corporal afflictions. It is in *aliena republica*, a matter of another world. You may as well cure the colic by brushing a man's clothes, or fill a man's belly with a syllogism. These things do not communicate in matter, and therefore neither in action nor passion. And since all punishments in a prudent government punish the offender to prevent a future crime, and so it proves more medicinal than vindictive, the punitive act being in order to the cure and prevention, and since no punishment of the body can cure a disease in the soul, it is disproportionable in nature, and in all civil government to punish where the punishment can do no good; it may be an act of tyranny, but never of justice. For is an opinion ever the more true or false for being persecuted?

Force in matters of opinion can do no good, but is very apt to do hurt, for no man can change his opinion when he will, or be satisfied in his reason that his opinion is false because discountenanced.—Rev. Jeremy Taylor, "Discourse on the Liberty of Prophesying."

Charles the Fifth, they say, repented of having persecuted the Lutherans. He said to himself, I have thirty watches on my table, and no two of them mark precisely the same time—how could I then imagine that, in matters of religion, I could make all men think alike? What folly and pride!—Helvetius, "De l' Homme," vol. I., sec. iv., ch. 17.

It is to discussion, and consequently to the liberty of the press, that the science of physics owes its improvement. Had this liberty never subsisted, how many errors, consecrated by time, would be cited as incontestable axioms! What is here said of physics, is applicable to morality and politics. If we would be sure of the truth of our opinions, we should make them public. It is by the touch-stone of discussion that they must be proved. The press therefore should be free. The magistrate who prevents it opposes all improvement in morality and politics; he sins against his country, he chokes the very seeds of those happy ideas which the liberty of the press would produce. And who can estimate that loss! Wherever this liberty is withheld, ignorance, like a profound darkness, spreads over the minds of men. It is then that lovers of truth, at the same time that they seek it, fear to find it: they are sensible that they must either conceal, basely disguise it, or expose themselves to persecution, which every man dreads.

But what whimsical opinions will not such a liberty bring forth? Be it so—these opinions, destroyed by reason as soon as produced by caprice, will effect no alteration in the tranquility of a state.

There are no specious pretexts with which hypocrisy and tyranny have not colored their desire of imposing silence on men of discernment; and there is no virtuous citizen that can see in the pretexts any legitimate reason for remaining silent.

The publication of truth can be displeasing to those impostors only, who, too frequently gaining the attention of princes, represent an enlightened people as factious and the barbarous people as docile. But what does experience teach us upon this subject? That all intelligent people are deaf to the idle declamations of fanaticism, and shocked by all acts of injustice.

When a government prohibits writing on matters of administration, it makes a vow of blindness, a vow which is common enough. As long as my finances are well regulated, and my army well disciplined, said a great prince, let who will write against my discipline and my administration: but if I neglect either of these, who knows whether I should not have the weakness to compel such writers to silence.

To limit the press is to insult the nation; to prohibit the reading of certain books is to declare the inhabitants to be either fools or slaves.

Should we to destroy error compel it to silence? No. How then? Let it talk on. Error, obscure of itself, is rejected by every sound understanding. If time have not given it credit, and it be not favored by

government, it cannot bear the eye of examination. Reason will ultimately direct wherever it be freely exercised.—Helvetius, "De l' Homme.'

In this situation, men not only shrink from the frowns of a stern magistrate, but are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse, and in social habitudes. The blood of wholesome kindred is infected. Their tables and beds are surrounded with snares. All the means given by Providence to make their life safe and comfortable are perverted into instruments of terror and torment. This species of universal subserviency, that makes the very servant who waits behind your chair the arbiter of your life and fortune, has such a tendency to degrade and abase mankind, and to deprive them of that assured and liberal state of mind which alone can make us what we ought to be, that I vow to God, I would sooner bring myself to put a man to immediate death for opinions I disliked, and so to get rid of the man and his opinions at once, than to fret him with a feverish being tainted with the goal distemper of a contagious servitude, to keep him above ground, an animated mass of putrefaction, corrupted himself, and corrupting all about him.—Edmund Burke.

There is a most absurd and audacious method of reasoning avowed by some bigots and enthusiasts, and through fear assented to by some wiser and better men; it is this: They argue against a fair discussion of popular prejudices, because, say they, though they would be found without any reasonable support, yet the discovery might be productive of the most dangerous consequences. Absurd and blasphemous notion! As if all happiness was not connected with the practise of virtue, which necessarily depends upon the knowledge of truth; that is, upon the knowledge of those unalterable relations which Providence has ordained that every thing should bear to every other. These relations, which are truth itself, the foundation of virtue, and consequently the only measures of happiness, should be likewise the only measures by which we should direct our reasoning. To these we should conform in good earnest; and not think to force nature, and the whole order of her system, by a compliance with our pride and folly, to conform to our artificial regulations. It is by a conformity to this method, we owe the discovery of the few truths we know, and the little and rational happiness we enjoy. We have something fairer play than a reasoner could have expected formerly, and we derive advantages from it which are very visible.

The fabric of superstition has in this our age and nation received much ruder shocks than it had ever felt before; and through the chinks and breaches of our prison, we see such glimmerings of light, and feel such refreshing airs of liberty, as daily raise our ardor for more. The miseries derived to mankind from superstition under the name of religion, and of ecclesiastical tyranny under the name of church government,

have been clearly and usefully exposed. We begin to think and to act from reason and from nature alone. This is true of several, but still is by far the majority in the same old state of blindness and slavery, and much is it to be feared that we shall perpetually relapse while the real productive cause of all this superstitious folly, enthusiastical nonsense, and holy tyranny, holds a reverend place in the estimation even of those who are otherwise enlightened.—Burke, "Vindication of Natural Society," page 6 and 7, Tucker's Edition, after Ed. of 1780.

. . . To inflict blows upon the body because the mind has erred in a process of reasoning, what is this but to seek a remedy in the physical world, when the evil to be cured is in the moral and intellectual world! This is as appropriate and rational as it would be to send for a surgeon to amputate a limb, or apply a caustic, because the intellect has failed to determine aright of two events, which is the cause and which is the effect; has failed to determine right, whether the apparent motion of the sun is to be ascribed to the revolution of the heavens, or to the revolution of the earth on its axis. And when the illustrious Galileo was condemned by the Roman doctors as a heretic, and thrust into prison for asserting that the earth did revolve on its axis in twenty-four hours, who does not perceive that they utterly mistook the appropriate means of exposing and refuting the supposed error! Who does not perceive that it was one thing to shew the world they possessed the greater power, and were disposed to use it, and quite another thing to demonstrate, that in astronomy they thought truely, and their illustrious victim erroneously! What is it that makes them appear so ridiculous as the guardians of learning and truth, but the incongruity of replying to a philosophical statement, not with facts and arguments, not with weapons appropriate to that intellectual province where the controversy lay, but with an application of brute force! We look to see them throw over the mind of the philosopher the light of superior knowledge and genius, when lo! they come with a legion of armed soldiers, and thrust his body into a dungeon! We wait to see them produce an argument, and they inflict a blow!

. . . It may repress convictions, it may lead to insincerity, it may teach men to disregard the intellect and conscience, it may retard the progress of truth, but it can never change the belief, nor contribute one thought to the sum of human wisdom. It employs instruments which have nothing to do with truth, and which cannot influence the efforts of mind in the pursuit of it.

. . . Else, if this be not so, if truth is to be maintained by force of arms, then the blood of martyrs refutes Christianity, and the death of Christ, instead of being a glorious proof of love and compassion, stamps him as a deceiver. In that case, too, the ancient trial by combat was a rational mode of establishing the guilt or innocence of the accused. In

short, on this supposition, might makes the right, and a tiger can reason better than a man!

. . . Connected, therefore, with freedom of opinion, and resting on the same basis, are our freedom of speech and freedom of the press—rights, without which freedom of opinion is but a name and a mockery.

. . . When we see a man assail with violence all who controvert his opinions—when we see him attempt to crush with the weight of popular odium, attempt to silence opposing presses and to stifle opposing discussion, by mere brute force, what is this, but evidence irresistible, that he loves his own opinions, his own interests or his own party, better than he loves free discussion and the fundamental rights of man? What is it but proof that he wants confidence in the justice of his cause, and is afraid of the light? "Men love darkness better than light, because their deeds are evil. For every one who doeth evil hateth the light, neither cometh to the light, lest their deeds should be reproved. But he that doeth truth cometh to the light, that his deeds may be made manifest, that they are wrought in God." To court discussion is, of course, no certain proof that we are right; but to be afraid of it, is a conclusive indication that we suspect at least we may be wrong.

. . . Within a few years public assemblies have been held in many parts of our country, in which the most corrupt disorganizing doctrines have been boldly and openly maintained. The Saviour of the world has been scoffed at as an impostor—the marriage institution attempted to be subverted, and not a few of the pillars of religion and of civil society assailed with the utmost violence by polluted atheistical outcasts. Nay, they have not stopped here—They have established presses, and sent out their tracts and their newspapers far and wide to blaspheme our God, to poison the fountains of domestic felicity, and to corrupt the principles of our youth. This was a great outrage—this was a severe trial of our faith in the power of truth. Now, what if popular indignation had broken in upon these assemblies, and dispersed them? What if popular violence had seized upon these prostituted presses—these noble instruments made to be the ministers of truth, but now so grossly abused—had ground them to powder and scattered them to the four winds? . . . Yes! from Maine to Louisiana there would have been a cry of shame and indignation, and this great nation would never have been appeased till the guilty had been brought to condign punishment.—Rev. Horatio Potter, "Intellectual Liberty," Albany, 1837.

Without freedom of thought there can be no such thing as wisdom, and no such thing as public liberty without freedom of speech—which is the right of every man, as far as by it he does not hurt and control the right of another; and this is the only check which it ought to suffer, and the only bounds which it ought to know.

Whoever would overturn the liberty of the nation must begin by subduing freedom of speech.

To do public mischief without hearing of it is the prerogative and felicity of tyranny.

All ministers therefore who were oppressors, or intended to be oppressors, have been loud in their complaints against freedom of speech, and a license of the press; and always restrained or endeavored to restrain both. In consequence of this they have brow-beaten writers, punished them violently and against law, and burnt their works. By all which they showed how much truth alarmed them, and how much they were at enmity with truth.

Freedom of speech produces excellent writers, and encourages men of fine genius. Tacitus tells us that the Roman commonwealth read great and numerous authors, but when it was enslaved those great wits were no more. Tyranny had usurped the place of equality, which is the soul of liberty, and destroyed public courage. The minds of men, terrified by unjust power, degenerated into all the vileness and methods of servitude: abject sycophancy and blind submission grew the only means of preferment, and indeed of safety: men durst not open their mouths but to flatter.

Pliny the younger observes that this dread of tyranny had such effect that the senate, the great Roman senate, became at last stupid and dumb. And in one of his epistles, speaking of the works of his uncle, he makes an apology for eight of them, as not written with the same vigor which was to be found in the rest; for that these eight were written in the reign of Nero, when the spirit of writing was cramped by fear. . . . As long as there are such things as printing and writing, there will be libels—it is an evil arising out of a much greater good. However, it does not follow that the press is to be sunk for the errors of the press—for it is certainly of much less consequence that an innocent man should now and then be aspersed than that all men should be enslaved.

Many methods have been tried to remedy this evil. In Turkey and Eastern monarchies, all printing is forbid; which does it with a witness; for if there can be no printing at all there can be no libels printed; and by the same reason there ought to be no talking, lest people should talk treason, blasphemy, or nonsense; and for a stronger reason yet, no preaching, because the orator has an opportunity of haranguing often a larger auditory than he can persuade to read his lucubrations; but I desire it may be remembered that there is neither liberty, arts, sciences, learning, or knowledge in these countries.

But another method has been thought on in these Western parts of the world, much less effectual, and yet more mischievous than the former, namely, to put the press under the protection of the prevailing party,

and authorize libels on one side only, and deny the other side the opportunity of defending themselves.

What mischief is done by libels to balance all these evils? They seldom or never annoy an innocent man, or promote any considerable error. Wise and honest men laugh at them, and despise them, and such arrows always fly over their heads or fall at their feet. Most of the world take part with a virtuous man, and punish calumny by their detestation of it. The best way to prevent libels is not to deserve them. Guilty men alone fear them, or are hurt by them, whose actions will not bear examination, and therefore must not be examined. 'T is fact alone that annoys them; for if you tell no truth, I dare say you may have their leave to tell as many lies as you please.

The same is true in speculative opinions. You may write nonsense and folly as long as you see fit, and no one complains of it but the bookseller. But if a bold, honest, and wise book sallies forth, and attacks those who think themselves secure in their trenches, then their camp is in danger, and they call out all hands to arms, and their enemy is to be destroyed by fire, sword, or fraud. But 't is senseless to think that any truth can suffer by being thoroughly searched, or examined into; or that the discovery of it can prejudice right religion, equal government, or the happiness of society in any respect. She has so many advantages above error, that she wants only to be shown to gain admiration and esteem; and we see every day that she breaks the bonds of tyranny and fraud, and shines through the mists of superstition and ignorance; and what then would she do, if these barriers were removed, and her fetters taken off?—Gordon, "Cato's Letters."

Governments, no more than individual men, are infallible. The cabinets of princes and the parliaments of kingdoms are often less likely to be right in their conclusions than the theorist in his closet. What system of religion or government has not in its turn been patronized by national authority? The consequence therefore of admitting this authority is, not merely attributing to government a right to impose some, but any or all, opinions upon the community. Are Paganism and Christianity, the religions of Mahomet, Zoroaster, and Confucius, are monarchy and aristocracy in all their forms, equally worthy to be perpetuated among mankind? Is it quite certain that the greatest of all calamities is change? Have no revolution in government and no reformation in religion been productive of more benefit than disadvantage? There is no species of reasoning in defence of the suppression of heresy which may not be brought back to this monstrous principle, that the knowledge of truth, and the introduction of right principles of policy, are circumstances altogether indifferent to the welfare of mankind.

Reason and good sense will not fail to augur ill of that system of things

which is too sacred to be looked into; and to suspect that there must be something essentially weak that thus shrinks from the eye of inquiry.

Nothing can be more unreasonable than an attempt to retain men in one common opinion by the dictate of authority. The opinion thus obtruded upon the minds of the public is not their real opinion; it is only a project by which they are rendered incapable of forming an opinion. Whenever government assumes to deliver us from the trouble of thinking for ourselves, the only consequences it produces are those of torpor, imbecility. Wherever truth stands in the mind unaccompanied by the evidence upon which it depends, it cannot properly be said to be apprehended at all. The mind is in this case robbed of its essential character, and genuine employment, and along with them must be expected to lose all that is capable of rendering its operations salutary and admirable.

Either mankind will resist the assumptions of authority undertaking to superintend their opinions, and then these assumptions will produce no more than an ineffectual struggle; or they will submit, and then the effect will be injurious. He that in any degree consigns to another the task of dictating his opinions and his conduct, will cease to inquire for himself, or his inquiries will be languid and inanimate.

Regulations will originally be instituted in favor either of falsehood or truth. In the first case, no rational inquirer will pretend to allege anything in their defence; but, even should truth be their object, yet such is their nature, that they infallibly defeat the very purpose they were intended to serve. Truth, when originally presented to the mind, is powerful and invigorating; but, when attempted to be perpetuated by political institutions, becomes flaccid and lifeless. Truth in its unpatronized state improves the understanding; because in that state it is embraced only so far as it is perceived to be true. But truth when recommended by authority is weakly and irresolutely embraced. The opinions I entertain are no longer properly my own: I repeat them as a lesson appropriated by vote, but I do not, strictly speaking, understand them, and I am not able to assign the evidence upon which they rest. My mind is weakened while it is pretended to be improved. Instead of the firmness of independence, I am taught to bow to authority and know not why. Persons thus trammeled, are not, strictly speaking, capable of a single virtue. The first duty of man is, to take none of the principles of conduct upon trust; to do nothing without a clear and individual conviction that it is right to be done. He that resigns his understanding upon one particular topic, will not exercise it vigorously upon others. If he be right in any instance, it will be inadvertently and by chance. A consciousness of the degradation to which he is subjected will perpetually haunt him; or at least he will want the consciousness that accrued from independent consideration, and will therefore equally

want that intrepid perseverance, that calm self approbation that grows out of independence. Such beings are the mere dwarfs and mockery of men, their efforts comparatively pusillanimous, and the vigor with which they should execute their purposes, superficial and hollow.

Strangers to conviction, they will never be able to distinguish between prejudice and reason. Nor is this the worst. Even when the glimpses of inquiry suggest themselves, they will not dare to yield to the temptation. To what purpose inquire, when the law has told me what to believe, and what must be the termination of my inquiries? Even when opinion, properly so called, suggest itself, I am compelled, if it differ in any degree from the established system, to shut my eyes, and loudly profess my adherence where I doubt the most.

A system like this does not content itself with habitually unnerving the mind of the great mass of mankind through all its ranks, but provides for its own continuance by debauching or terrifying the few individuals, who, in the midst of the general emasculation, might retain their curiosity and love of enterprise. We may judge how pernicious it is in its operation in this respect, by the long reign of papal usurpation in the dark ages, and the many attacks upon it that were suppressed, previously to the successful one of Luther. Even yet how few are there that venture to examine into the foundation of Mahometanism and Christianity, in those countries where those systems are established by law!

It is a mistake to suppose that speculative differences of opinion threaten materially to disturb the peace of society. It is only when they are enabled to arm themselves with authority of government, to form parties in the state, and to struggle for that political ascendancy which is too frequently exerted in support of or in opposition to some particular creed, that they become dangerous. Wherever government is wise enough to maintain an inflexible neutrality, these jarring sects are always found to live together with sufficient harmony. The very means that have been employed for the preservation of order, have been the only means that have led to its disturbance. The moment government resolves to admit of no regulations oppressive to either party, controversy finds its level, and appeals to arguments and reason, instead of appealing to the sword or to the state. The moment government descends to wear the badge of a sect, religious war is commenced, the world is disgraced with inexpiable broils, and deluged with blood.—Godwin, "Political Justice," b. vi., ch. i. and iii.

SECTION IV

PETER BAYLE: AN EXPLANATION CONCERNING OBSCENITIES

[ABOUT 1690]

[EDITORIAL NOTE: Peter Bayle, one of the most erudite men of his century, was prompted to write this essay under the following circumstances: He had prepared and published an elaborate Historical and Critical Dictionary in five ponderous tomes. Having a very judicial temperament he tried honestly to write history according to the facts as he found them. As a result, he stated the contentions of heretics as they were made, and made truthful relation of "obscenities" as they were displayed in the subjects deemed worthy of discussion. By taking too much liberty in philosophising, by the relation of "obscenities," and by stating too strongly the claims of certain heretics, he gave offense to the ecclesiastical authorities. At that time, no secular law had made the publication of "obscenities" a crime, but the author could be subjected to church discipline.

Mr. Bayle was cited before the Consistory of the Church of Rotterdam, and there it was required of him that in his next edition, then in preparation, some matters should be omitted and as to others he should publish an explanation such as would make the offending matter appear to the populace and ecclesiastics in an unoffending light. The fourth and last of these explanations was that concerning "obscenities," now for the first time printed since 1738. With a psychologic insight that would be creditable to a modern specialist in psychology, Mr. Bayle, in a very analytical way, anticipated and answered all the arguments of our modern prudes of literature, and in a manner, too, which will stand almost as satisfactory and irrefutable to-day as it did when written over two hundred years ago.—THEODORE SCHROEDER.

When people say that there are Obscenities in any book, they may understand,

I. Either that the author gives the discription of his debaucheries in lewd terms, applauds and congratulates himself for them, exhorts his readers to plunge themselves into all manner of lewdness, recommends it to them as the most effectual means of leading a sweet and happy life, and pretends that the censures of the public are to be laughed at, and that the maxims of virtuous men ought to be slighted as old women's tales.

II. Or, that the author relates, in a free and gay style, some love-adventures, feigned as to the substance, or at least as to their circumstances and embellishments; and introduces into his narrative several immodest incidences, which he dresses in all the charms imaginable, in order to make them diverting, and fitter to raise the desire of love-intrigues than any thing else.

III. Or, that the author, in order to revenge himself on an unfaithful mistress, or to excuse the transports of his passion, or make invectives against an old courtezan, or celebrate his friend's marriage, or divert himself with merry thoughts, gives a free scope to his Muse, and writes Epigrams, Epithalamiums, full of impure and smutty expressions.

IV. Or, that the author, inveighing against lewdness, describes it in too lively, naked, and gross colours.

V. Or, that the author in a tract of Physic, Natural Philosophy, or

Civil-Law, expresses himself filthily on the subject of generation, or the causes and remedies of barrenness, or the motives of divorce.

VI. Or, that the author, commenting upon Catullus, Petronius, or Martial, has inserted in his commentary several lewd discourses or expressions.

VII. Or, that the author, giving the History of a sect, or person, whose actions were infamous, has related, in too open a manner, a great many things offensive to chaste ears.

VIII. Or, that the author, treating of cases of conscience, and enumerating the different species of carnal sin, has said many things which modesty cannot easily digest.

IX. Or, lastly, that the author relates Historical facts mentioned by other authors whom he carefully cites, which facts are filthy and immodest, and adds a commentary on his Historical narrations to illustrate them by testimonies, by reflexions, and by proofs, in which he sometimes alledges the words of certain authors who have wrote freely, some of them, as Physicians, or Lawyers; others, as Gallants, or Poets; but he never says any thing containing, either explicitly, or even implicitly, the approbation of impurity: that, on the contrary, he endeavours, upon many occasions, to expose it to our abhorrence, and to confute loose Morality.

These, I think, are the chief cases wherein a writer can be charged with venting obscenities.

In the first case, he deserves not only all the severest punishment of the Canon-Law, but ought also to be prosecuted by the Magistrate as a disturber of the public modesty, and a professed enemy to virtue.

As to those of the second, third, fourth, fifth, sixth, seventh, and eighth classes, let every one judge of them as he pleases; I am not concerned in them, mine being only the ninth case; and it is sufficient for me to examine what concerns that ninth kind of obscenity. However, I will make two or three general reflexions upon the rest.

II. I say in the first place, that there are several degrees in the seven classes of writers, whom I leave to the reader's judgment. A man may keep himself within certain bounds, or may exceed them: this prodigiously varies the differences and proportions; and it would be very unjust to pronounce the same sentence against all the writers of the second class. The hundred *Nouvelles nouvelles*, those of the Queen of Navarre, Boccace's Decameron, la Fontaine's Tales do not deserve the same rigour as Aretin's Raggionamenti, and the Aloisia Sigæa Toletana. The authors of these two last works deserve, as well as Ovid, to be placed in the first class of obscene authors.

Secondly, I observe that in all times a great number of men have agreed in condemning obscenities; and yet this never seemed to be a decision of equal force with the Civil Laws, a decision to which the

Poets, Commentators, *et al*, were obliged to conform on the penalty of being excluded from the ranks of honest men. The censurers of obscenities seem to be so much the more capable of terminating the question by a decisive and executive sentence, in the whole Republic of Letters, because they might make up a Senate out of all sorts of men. There would be in it not only persons venerable for the austerity of their lives, and sacred character, but also military men, and professed gallants, and, in a word, many who give offence by their voluptuous life. This is an authority of great weight: for the liberty of lewd verses must needs be an ill thing, since it is disliked by those very persons who live in debauchery. But in vain have obscene writings been exclaimed against; it has had no effect to distinguish between honest and dishonest men. There has always been in the Republic of Letters a right or liberty of publishing writings of this nature. This right has never been liable to prescription; several persons of a distinguished merit have prevented it by the freedom they have allowed themselves in such sort of works; and this has brought no disgrace upon them, nor in any ways incapacitated them for the enjoyment of all the honors and privileges belonging to their condition, nor prevented the preferments they might hope for from their fortune.

He would be laughed at who should set about to prove that Boccace was not a man of probity, because he wrote the Decameron; or conclude that the Queen of Navarre, sister to Francis I., was not a Princess of admirable virtue, whose praises resounded everywhere, because she wrote the Novels of Gallantry. Anthony Panormita lost nothing of his good fortune or his good reputation, by his smutty poem of the Hermaphrodite. The same may be said of Benedict le Court, and the famous Tiraquellus; the former gave himself great liberty in writing a commentary on Martial d' Auvergne's Decree of Love; *Nonnunquam etiam*, says he is in his Epistle Dedicatory to a Counsellor of the Parliament of Paris, *quod in amore jocatus sim lasciviente calamo;* and every body knows how many obscene collections Tiraquellus inserted in his commentaries upon matrimonial laws. Did Scipio du Pleix use any periphrases or reserves in his book called, *La curiosite naturelle redigee en questions selon l' ordre alphabetique?* Did he not explain things in the most natural terms imaginable? What did he lose by that book? Nothing at all. I should never have done, should I undertake to give a list of all the Civilians, who in trials of adultery, or impotency, have alledged many obscenities, without any prejudice to their reputation. I have named three or four, Anthony Hotman, Sebastian Roullaird, Vincent Tagereau, and Annæus Roberts. This is enough; let us name some persons of another rank.

The Dutch could not bear that any body should defame Secundus as a wicked and profligate man, or so much as deny he was an honest

man, under pretence that he wrote very lascivious verses. Ramirez de Prado, who wrote notes upon Martial, printed at Paris with the King's license in the year 1607, and full of lewd explications, lost nothing by this of his reputation or fortune, no more than Gonzales de Salas for his commentary of the same kind upon an obscene author. Joubertus, Chancellor of the University of Montpellier and physician to the King of France, and to the King of Navarre, lost neither his pensions, nor his honorable posts, for inserting several obscenities in his book of Vulgar Errors.' Nor is he on that account esteemed a less illustrious and honest man. Did Quillet's Callipædia hinder him from being recompensed with an abbey by Cardinal Masarin? Fersmus, Advocate in the Parliament of Paris, did not find that his merit was less extolled, or acknowledged, after he had wrote verses against Montmaur, wherein he sported with very obscene fictions.

And to come nearer our own time, was M. de la Fontaine, who, published so many lewd tales, less caressed by every body at court and city? Lords and Princes, the ladies of the highest rank, the most illustrious persons of the long robe, have all courted and admired him. Was he not admitted into the French Academy? And is not that honour, for a man of his character, equivalent to a mareschal's staff for a military man? I doubt not but M. de la Reinie would have gladly entertained him at his table the very day that he condemned his tales; for in such books wise men know how to distinguish between the person of the author, and his writings.

III. Let us see whether the Protestants have been more rigid. I do not think that the Consistories ever thought of censuring Ambrose Pare, whose Anatomical books written in the vulgar tongue, were full of filthy things. There are many obscenities in Joseph Scaliger's commentaries upon the Priapeia, and upon Catallus. There are more still in Janus Douza's commentary upon Petronius. One of those two writers was Professor at Leyden, and the other was one of the Curators of that university. They did not lose upon that account their credit, and the great esteem they were in; and though Beza mightily exclaimed against them in an Epistle Dedicatory to the States-General, his outcries were not minded. Daniel Heinsius, Professor in the same university, enjoyed all the honours he could pretend to; he was one of the Secretaries of the Synod of Dort, and received on a thousand occasions several proofs of the esteem they had for his person; and yet he published some poems that are far from being modest. What he and Scriverius called *Baudii amores*, is a very wanton collection; and it is to be observed, that Scriverius was a man of merit, and of great note among the learned in Holland. Notwithstanding Besa's exhortation, Theodore de Juges put out an edition of Petronius with his *Prolegomena*, wherein he endeavored to justify those who explain the obscenities of

that Roman author. It does not appear that Theodore de Juges did suffer in his reputation or fortune upon that account. He was a Protestant, and some persons of his family were Counsellors in the court of Castres, whose members were one-half Protestants and the other Roman Catholics; and he spent a considerable part of his life at Geneva. Goldstus had enjoyed the same impunity after his edition of Petronius which he published with his *Prolegemena*, wherein he undertook to justify the reading of such an author, and made a particular answer to Beza's reflexions. Shall I say that the famous d' Aubigne was very much respected at Geneva, though the cynical liberty of his pen was a notorious thing? Shall I observe that the consistory of Charenton never had any thought of complaining of Dr. Menjot, though his writings concerning Physic are intermixed with many obscene things? Shall I add, that Isaac Vossius being a Canon of Hindsor, when he published a book full of filthy things, the Dean and the Chapter did not meet to inflict upon him even the slightest punishment, *viz.*, that of being reprimanded?

It is therefore no wonder if the faction contrary to those who condemn obscenities, did always maintain itself in the Republic of Letters; for besides their alledging several reasons for their opinions, they shelter themselves under the authority of several examples. You may see these reasons and these examples in the *Prolegomena* of Goldsstus upon Petronius. All those who have apologized for the authors who as Physicians, or as Casuists, advance obscene things, alledge reasons against reasons, and authorities against authorities. They want neither great names nor grave authorities, *magne fe judice quisque tuetur.* But do not think that I suppose that their reasons and those of their adversaries have an equal force. I have declared in several places, that I absolutely condemn Catullus's obscenities, and those of his imitators, and the excessive freedom of the Casuists; and I add now, that the arguments alledged by those who plead for the liberty of inserting obscenities in an epigram, seem to me very weak, if compared with the contrary arguments. I further add, that an obscenity softened, and meant only as jest, seems to me to be more blamable than a very obscene invective designed to create an abhorrence for impurity.

IV. For I say in the third place, that if any one should alledge that it were better for the writers of these seven classes, to apply themselves only to serious matters, and to treat them all with the modesty required by the gospel, he would depart from the state of the question. This advice, though very good in itself, is not pertinent on this occasion, since they might answer that the question is not whether they have chosen the good part, and whether they have made the best use they could make of their leisure and pen, but only whether they have taken a liberty condemned, upon pain of ignominy, by the statutes of the Repub-

lic of Letters, the regulations of civil policy, and the laws of the state. They would readily acknowledge that they could not avoid being condemned, if they were judged by the laws of the gospel; but they would maintain that all writers are in the same case, some more, some less, there being none but may be told that he might have employed himself in a more Christian-like manner than he has done; for, to give an instance of it, a Divine who has spent all his time in writing commentaries upon the Scripture, might have made a more pious use of it. Had it not been better for him to divide the day between mental prayer and works of charity? Why did he not spend part of the day in meditating upon the greatness of God, and the four last things? Why did he not spend the other in going from one Hospital to another to relieve the poor, and from house to house, to comfort afflicted persons and instruct little children? Since therefore no man, will they say, can give a good account of his time at the severe tribunal of the Divine justice, and every body stands in need of mercy on account of many useless things, and for having erroneously chosen what was not the most necessary part, we appeal to another jurisdiction, and desire it may be enquired whether we have done anything for which in the Judgment of the Public, and before the tribunal of the magistrates, we deserve to lose the title of good men, and to be deprived of the rank and privileges of men of honour. We desire a thing, would they say, which cannot be refused to several virtuous women who go to plays and to balls, who love gaming and fine clothes, and who have such regard for their beauty that they carefully study what ornaments will set it off to the best advantage. They know very well that their conduct is not agreeable to the precepts of the gospel; but whilst they do nothing else they may lawfully pretend to the quality, rank, and privileges of virtuous women. They deserve to be censured by the Preachers and the Christian Moralists, I grant it; but till the public, or the magistrates, have fixed a note of infamy upon such a course of life, they cannot be called bad women; and whoever should call them so, would be obliged to make them a public satisfaction. They may alledge the practice of all ages, since there have been at all times many virtuous women who loved gaming, plays, balls, and jewels, and, after all, they do not offend against the civil Laws, nor against the rules of human honour, and are not guilty of that kind of disorder which is the peculiar character of gallant women.. Poets, who in an *Epithalamium* make too naked a discription of a wedding-night, may alledge the same reason—they will own that their Muse might have pitched upon a more laudable subject, and that the composition of a Christian sonnet was preferable to that; but this very composure would not have been the best thing they could have done. It had been better for them to spend their time in praying, and serving the poor in Hospitals, Etc. There is hardly any business but what may be blamed for this reason, that a

better one might have been pitched upon; and of all the occupations of this life, there is hardly any that is more blamable, if we judge of it by the rules of religion, than that which is most common; I mean the occupation of those who endeavour to get money either by trading or other fair means. Humanly speaking, the most lawful means of growing rich are contrary, not only to the Spirit of the gospel, but also to the literal prohibitions of Jesus Christ and his Apostles. And therefore it highly concerns all men that God should be merciful to them for not making the best use of their time. The Poets I speak of, having laid down this principle, add, that they only tread in the steps of many persons illustrious for their virtue and wisdom; that the liberty they take always prevailed among honest men; that if it had been laid aside for some ages as the peculiar character of debauchery, they could not be excused; but that it will appear they may claim the right of possession, and that a thing which has been practised by so many honest men cannot be accounted dishonest. This is a maxim of Pliny on the present question. He was one of the greatest wits, and one of the most honest men of his time; he made some verses that were thought to be somewhat impudent, and was blessed for it; he alledged many great examples in his vindication, and would not instance the Emperor Nero, though, said he, I am not ignorant that things do not grow worse, because they are sometimes practised by wicked men, but they continue to be honest when they are often practised by honest men.

This much for the Poets. Now I must observe in a few words that the authors belonging to the other classes above mentioned, may allege the same reasons. Nay, some of them may say something more specious: A natural Philosopher, for instance, and a Physician, may maintain, that their profession requires they should explain what concerns generation, barrenness, the green sickness, a woman's delivery, and the *furor uterinus*, as well as fermentation, and what concerns the Spleen, the Gout, Etc. A Casuist will say, that it is no less necessary that confessors and penitents should be informed of the several ways of offending against chastity, than of the several frauds that are committed in purchases.

At least we ought to do those authors the justice they claim, *viz.*, not to judge of their morals by their writings. No necessary consequences can be drawn from either of those two things to the other. Some Poets are chaste in their verses, and in their morals; some are chaste neither in their verses nor in their morals; some are chaste only in their verses, and some are not chaste in their verses, but they are so in their morals, and all their fire lies in their heads. All the wanton strokes of their epigrams are only witty conceits; their Candida's and their Lesbia's are fictitious mistresses. The Protestants cannot deny it of Beza, since he

declares that he lived a regular life when he wrote the Poems, intitled *Juvenilia*, of which he did so much repent.

V. After these general observations, I shall proceed to the examination of what concerns this Dictionary; and the first thing I shall observe upon this head is, that if those observations are not looked upon as a solid justification, I shall not be prejudiced by it; but if they are approved as such, they will be of great use to me. I am in far better circumstances than all the authors I have mentioned: for though Catullus, Lucretius, Juvenal, and Suetonius be never so much condemned, a writer who cites them cannot be blamed for it. Those authors are to be had in all the Booksellers' shops; the passages quoted out of them cannot be more dangerous than they are in those authors themselves; and there is a vast difference between the first authors of an obscenity, and those who mention it only as the proof of a fact, or of an argument which the subject in hand obliges them to alledge. Granting that Joubertus expressed himself too immodestly, does it follow from thence that I could not alledge his authority when I was to criticise a very weak argument alledged against those who accused the Physician Herlicius of lewdness? However it be, if the excuses alledged in favor of Suetonius, Joubertus, *et al.*, are good and solid, so much the better for me; if they are not good, it can do me no prejudice; my case is different from theirs, and much better. By the argument *a fortiori*, what they may say in their vindication may be alledged by me with greater reason; and what is a weak argument for them, may be a very strong one for me. You need only compare together the nine classes I have mentioned, and you will find that the last, which suits my work, is less liable to a just censure.

This will more clearly appear, if to what I said above concerning the nature of my case, I add this consideration, *viz.:* That I have avoided three things that might have occasioned just complaint.

In the first place, whenever I have said any thing as my own, I have avoided all words and expressions that are contrary to common civility and decency. This is sufficient in a work of this nature, intermixed with Historical narratives, and all sorts of discussions; for to pretend that a compilation which is to contain matters of Literature, Law, or Natural Philosophy, according to the various subjects treated on, ought to be written according to the most strict rules of decency observed in a sermon, or in a book of devotion, or a novel, would be confounding things, and setting up a kind of tyranny over men's minds. A word that would be thought unbecoming in the mouth of a preacher, and in a small romance designed for the entertainment of the ladies, would not appear so in a case written by a lawyer, nor in the verbal process of a Physician, nor in a book of Natural Philosophy, nor even in a piece of Literature, or in the faithful translation of a Latin Book, such as for

instance, the relation of Abelard's misfortune. It is therefore certain, that there are several degrees of decency, with respect to the style: the highest degrees belong to some writers, and not to all. If an ingenious man was desired by some ladies to write a romantic History of Jupiter's or Hercules's adventures, he would do well never to use the words, *to geld, to deflower, to get with child, to lie with nymph, to ravish her;* he should either lay aside the particulars that might excite these ideas, or keep them at a distance by general and enigmatical expressions. But if the writers of an Historical Dictionary, wherein the reader expects to find an exact translation of what is to be found in the ancient Mythology concerning Jupiter's adventures, used long circuits, and far-fetched expressions, whereby the fate of some nymphs might be guessed at, they would be accounted finical and ridiculous. They do not offend against decency, provided they keep within the bounds of common civility; that is, provided they abstain from such words as are used by the rabble, and which even a debauchee carefully avoids in a serious conversation.

They may boldly use all the words that are to be found in the Dictionary of the French Academy, and in that of Furetière, unless the authors of these Dictionaries give notice that those words are odious and obscene. This is the first thing I have observed; *viz.*, that I keep to the rules of common decency when I say any thing as my own. I now proceed to give an account of the course I have taken as to passages quoted by me out of other authors.

I have avoided, in the second place, to express in our language the meaning of a quotation, which contained some immodest thing, and have set it down only in Latin. The passages I cite out of Brantome and Montague are not the most offensive which may be found in those authors; and I may say the same with respect to D'Aubigne, and other French writers somewhat too free, whom I have sometimes quoted to prove what I said.

In the third place, I have avoided mentioning, in any language whatsoever, such things as had a character of extravagancy and enormity unknown to the vulgar; and I have quoted nothing out of certain books that are little known, and which I rather leave in darkness than excite the desire of buying them, in those who should find them cited in this work. I never cited on this subject any authors but such as may be had every where, and are reprinted almost every year. I could name a very honest man, who never was a debauchee, who wrote from London to one of his friends that he expected to find quite other things in my Dictionary, from the clamours of certain people.

I imagined, said he, that it contained unknown obscenities, but I could find nothing in it but myself and my companions knew before we were eighteen years old.

After what has been said, it will be no difficult matter to know whether I have been justly or wrongfully blamed. The whole affair may be reduced to these two points,

1. Whether I am liable to censure, because I have not sufficiently wrapped up in ambiguous periphrases the obscene facts which have been found in History. 2. Whether I am wholly to blame, because I have not wholly suppressed those facts.

VI. The first of these two questions, properly speaking, belongs only to the Grammarians—Morality is not concerned in the matter; the civil Magistrates have nothing to do with it, *Nibil boecaad edictum prætoris;* neither are the Moralists or the Casuists concerned in it. If an action was to be brought against me, it could relate only to the unpoliteness of my stile; whereupon I would appeal to the French Academy, as the proper and competent judge of such causes. I am sure those gentlemen would not condemn me; otherwise they would condemn themselves, since all the words I make use of are to be found in their Dictionary, without any note of dishonour. When they do not declare that a word is obscene, all writers are thereby authorized to use it; I mean such words as they have defined. But further, I should readily consent to be condemned by them; for I do not pretend to politness of stile; I have declared in my preface that my stile *is very incorrect, and not free from expressions either improper or which begin to be obsolete, or even from barbarisms, and in these respects I am not very scrupulous.* Why should I pretend to it, since several famous authors, who lived at Paris, and were members of the French Academy, did not care for it? Why should a man hamper himself in a book designed for things, and not for words, and which, containing all sorts of matters, some serious, and others ludicrous, necessarily requires one should use various sorts of expressions? The author of such a work needs not to be cautious as a preacher; and though the latter ought, in the pulpit, to avoid this phrase, *They who get a maid with child, ought either to marry her, or give her a portion*, yet he may use it without any indecency in a book concerning cases of conscience. So true it is, that an author may express himself differently, according to the nature of his books.

But if any thing can excuse the writers who have no regard to I know not what refined delicacy which increases every day, it is this, that there will be no end of it; for, in order to act consistently, a vast number of words which the French tongue cannot be without, must be accounted obscene; and the writers who pretend to be so nice may easily be convicted of absurdity. It may be proved to them that, according to their principles, there are no precise or foppish women, and that those whom we call so are very reasonable and argue consequentially. I desire them to tell me, why the verb *to geld* appears obscene to them. Is it not because it offers an obscene object to our imagination? But

for the same reason the word *adultery* cannot be pronounced without a greater obscenity. Thus this word must be banished. There will be a necessity to banish likewise the words *marriage*, *wedding-day*, *bride's bed*, and a vast number of such expressions, which excite very obscene ideas, and incomparably more offensive than that, at which the precise lady in one of Moliere's plays was so much offended. *For my part, uncle, says she, all that I can say is, that marriage seems to me to be a very shocking thing. How can a woman endure the thought of lying by a naked man?* According to the principles of our Purists, nothing could be more reasonable than such a discourse, and every virtuous maid should turn out of her chamber all persons who should come and tell her of a design to marry her. She might justly complain that they have so little regard for her modesty as to offer to her a frightful obscenity without any veil or disguise. To ask a married woman whether she has had any children, would be a monstrous obscenity: politeness would require that we should use figurative expressions, and imitate, for instance, the finical lady, who said, "That her companion had given into lawful love [*which was marriage*], and that she knew not how she could resolve to taste brutish pleasures with a man; that she had done it to leave behind her some traces of herself, *that is, some children*."

According to the notions of the Purists, it would be a very reasonable thing to exclaim against Molière's School of Women, with all the fury he has so handsomely ridiculed, and which is, at the bottom, a downright extravagance. Every virtuous person should say that expression, *Children coming out through the ear, is abominable. . . . Can one that has any virtue, be pleased with a piece that keeps modesty in a constant alarm, and continually defiles the imagination? . . . I positively affirm that an honest woman cannot see* that play *without being put to shame. I have discovered so many lewd and filthy things* in it. . . . *Those obscenities*, God be thanked, *appear barefaced, they have not the least covering; The boldest eyes are frightened at their nakedness. . . . That passage of the scene, wherein Agnes mentions what was got from her, is more than sufficient to prove what I say. . . .* Fy! . . . I *repeat it again, the filthy things of that piece fly into one's face. . . . Is not modesty visibly offended by what Agnes says in the place we speak of?* If Urania ventured to answer, "Not at all. Agnes does not say a word but what is very modest; and if you will have it that she means something else, the obscenity proceeds from you, and not from her, for she speaks only of a ribbon that one got from her"—the following answer would be a wise one: "'Ah, you may talk of a ribbon as much as you please; but that *my* where she stops, was not put there for nothing; it occasions strange thoughts; that *my* is furiously scandalous; and, say what you will, you can never justify the insolence of that *my*. . . . There is an

intolerable obscenity in it." That discourse, though never so impertinent, would be proper and honest, according to this principle, *All words which defile the imagination, that is to say, which denote an obscene object, ought to be laid aside.* According to this principle, all those who have some modesty would be like the Marquise Araminta, whose character is as follows: "She says everywhere it is a horrid piece, and she could never endure the obscenities it is stuffed with. . . . She follows the ill example of those women who, being in the decline of their age, have a mind to supply what they are losing, by something else; and would have the grimaces of a scrupulous prudery serve them instead of youth and beauty. This lady carries the thing farther than any body else, and is so nicely scrupulous that she finds obscenities where no body else had discovered any. It is said her scruples are such as will disfigure our language, and that there are hardly any words but what she would curtail, either at the beginning or end, by reason of the immodest syllables she finds out in them."

I think I have read somewhere that preciseness has been carried so far that ladies would not say, *T'ai mange des consitures*, but *des situres.* At this rate, above one-half of the words of the Dictionary of the French Academy should be struck out, and then the rest would be insignificant, for they would want a connexion; and thus we should be obliged to explain ourselves by signs only, which would occasion more scandalous and more dangerous obscenities than those that come into one's ears. Here follows a passage of the *Chevræana*, whereby my assertion will be extremely well confirmed:

A lady who has a great deal of wit, but is too finical, told me one day she never used any words which might excite an obscene idea, and that when she was in company with polite people she said, *Un fond d' Artichaut*; *un fond d' Chapeau*; *une rue qui n'a point de sortie*, for what we call *un Cul de sac.* I told her she did very well, and that I would not fail to do the same. However, I added, that on some occasions we were obliged to speak like others. She very civilly desired me to give her any instances of it; and I asked her how she called in common conversation a piece that is worth sixty pence. Sixty pence, replies she. But madam, how do you call that letter of the alphabet that comes next to P? She blushed, and at the same time replied, *Truly, Sir, I did not think you would bring me back to my* a, b, c. You see Mr. Chevreau approves that we should never use any *words which may excite an obscene idea*; and by virtue of that principle, he is of opinion that we should never say, *un Cul de sac.* He must therefore strike out not only above two pages of Furetière's Dictionary, corrected by one of the politest writers of our days, but also a vast number of words whose first syllable excites more immodest ideas than the syllable Cul. He must also banish the words *adultery, fornication, incontinence,* and a thousand more; but as rigid as

he is with respect to obscene words, he was not willing to grant upon one single point what that precise lady required; therefore, he was not *confident* with himself. But let us forgive him that inconsistency; for the consequences of his assertion are so absurd, and so impracticable, that he is not to blame for not keeping to them. His only fault lies in not perceiving the falsity of a principle whereof the most necessary consequences are absurd, and plainly tend to the destruction of the use of speech. It is to be observed that there are some ladies as virtuous as that precise woman, who do not scruple to say, *Cul d' Artichaut*, and *Cul de sac*. This you may see in a passage of Costar; which has a great affinity with the subject in hand.

I have already observed that it is impossible to satisfy the Purists, against whom I am writing. The ground they go upon will make them lay aside, whenever they please, abundance of words not yet condemned by them, which, according to their maxims, do not less deserve to be rejected than those which they have actually laid aside. There is no avoiding their censure. Though you relate things in modest words, as has been done in the second volume of the *Menagiana*, they will say *that there are some passages in it plainly contrary to modesty, which can not be read without horror, by virtuous persons.* Could Father Bouhours avoid being criticized, though in his French translation of the Gospels he took all possible care to lay aside every word that might appear never so little unbecoming? Was not M. Boileau whom the illustrious President de la Moignon *often commended for having purged satirical poetry from the obscenity which till then had been, as it were, peculiar to it,* charged with *smuttiness for having used the words Embryon, voix luxurieuse, morale lubrique?* If such words cannot be admitted, there will be no end of censuring.

I know several persons who blame Mezerai for saying that some sparks, who had committed adultery, were *mutilated in the parts wherein they had offended.* Their censure is grounded upon these two reasons: One is, that there has no need to mention a circumstance which offers such an obscene object; the other is, that he should at least have omitted all the words after *mutilated*, that word being sufficient to express the thing. I desire those Critics not to take it ill of me if I believe that the circumstance which they say should have been omitted, is one of those which an Historian ought never to forget; for if there is any thing extraordinary in the punishment inflicted upon a malefactor, it ought to be particularly mentioned. The second Remark does not appear to me better. A sentence of death may import that a malefactor's hands, nose, or ears shall be cut off, before he be put to death; and therefore the word *mutilated* would not sufficiently express the circumstance which Mezerai was to inform us of. But supposing that this word is sufficient, does it follow from thence that the addition of the rest is a fault? Do

not we commonly say, *I have seen it with my own eyes, &c.* There are several needless words in such phrases, and yet no body finds fault with them. Lastly, I say that those Critics contradict themselves; they blame this addition as being unnecessary only; the thing, say they, had been well enough understood without it. They are not therefore against offering an obscene image to the mind, they would only have two or three needless sounds omitted. Their zeal for purity would have been edifying had they been altogether against the use of any thing in History that may excite an obscene idea; but they allow of it, provided it be done without any needless words. Thus they destroy in this last Remark what might have been edifying in the first. Such is the nice taste of our Purists, they blame one expression, and approve another, though they equally offer the same obscenity to the mind? The *observations* printed at Paris in the year 1700, against Mezerai, will be very acceptable to those Critics. See the margin. He is blamed in that book *for commonly using the words concubine, bastard, and adultery, which are inconsistent with the Niceness of our age.* I am sure they would not condemn the words *favorite, natural son, and conjugal infidelity*, which have the same signification. How inconsistently do they argue!

IX. The new whims of those, who, as I am told, begin to reckon the words *glister and physic* among obscene terms, and use the general word *remedy* in their room, would be less unreasonable. The word clistere (glister) was laid aside, as including too many circumstances of the operation, and the word *lavement* took its place as having a more general signification. But because the idea of the word *lavement* is become specific, and takes in too many circumstances, it will be quickly laid aside for fear of sullying the imagination, and none but general phrases will be used, such as *T'otois dans les remedes, un remede lui sut ordonne*, &c., which do not more particularly denote a glister or a purge, than a bag of herbs hung about the neck. These are certainly very strange whims, and were they approved and followed in all their consequences, they would destroy a great many expressions, to which every body is used, and which are very necessary to those who recover from a sickness and to their visitants; otherwise it would be no easy matter to keep up a conversation in their chambers, and there would be a necessity to use the whole jargon of the precise ladies. But after all, those whims are better grounded than those of the Purists, who are willing that an obscene image should be imprinted in the mind, provided it be with such and such words, and not with others.

To sum up what I have said upon this head, I observe:

I. That the question is not about a point of Morality, but is a mere Grammatical dispute, which ought to be decided by those who are judges of the politeness of stile.

II. That I shall ingenuously confess, I did not aim at the honour that may be acquired by such politeness.

III. That I do not think all authors are obliged to submit to the new notion of politeness of stile: for, were it exactly followed, there would be no need at last of any Dictionary but that of the precise ladies.

IV. That the title of this new politeness is not so well established as to obtain the force of a law in the Republic of Letters. The ancient title remains still, and may be used till a prescription begins.

V. That in such a book as this, it is enough not to act against the common practice: but any one who keeps within those bounds as carefully as I have done, may use several expressions which would be improper in a sermon, or a book written by a finical author. It is enough for him that they are used in Anatomical books, in cases drawn up by Lawyers, and in the conversations of learned men. . . .

X. But that it may the better appear that Morality is not concerned in the present question, I must obviate another objection of my censurers. Let us see whether they can alledge this pretence, that every phrase which offends modesty is an attempt upon Morality, since it is prejudicial to chastity.

Whereupon I observe in the first place, that they who say that certain things offend modesty must needs mean either that they weaken chastity, or exasperate the persons who are chaste. In the first sense, their position cannot be admitted; and if women are to decide the case, the censurers will be infallibly cast. But doubtless women are the most competent judges of such a thing, since shame and modesty are allotted to them in a much greater degree than to men. Let them therefore be pleased to tell us what passes in their soul when they hear or read a discourse which offends modesty They will not say, I am sure, that it not only fills their minds with obscene thoughts, but also that it excites in their hearts a lascivious desire which they cannot restrain without great difficulty; and, in a word, that they feel themselves exposed to temptations which stagger their virtue and carry it to the brink of ruin. We may be sure that, instead of such an answer, they will say that the idea which rises against their will in their imagination, fills their minds at once with the highest degree of shame, indignation, and anger. Now it is certain that nothing can be more effectual than this to corroborate chastity, and remove the contagious influence of an obscene object imprinted on the imagination; so that, instead of saying, according to the first sense, that what offends modesty endangers chastity, it ought to be said, on the contrary, that it is a fence, a preservative, a bulwark for that virtue; and, consequently, if we understand this phrase, Such *a hting offends modesty*, in the second sense, we ought to believe that, instead of weakening chastity, it revives and corroborates it.

Therefore it will still be true that the censuring of an author for not

following the most refined politeness of stile, is a mere Grammatical controversy, in which Morality is not in the least concerned.

XI. If it be replied, that Morality is concerned in it, since the author has expressed himself in such a manner as angers the readers; I answer, that this argument is grounded upon a false hypothesis: for no writer can prevent the spite, vexation, and anger of the readers, on a thousand occasions. Every Controversist, who defends his cause with great art and subtility, continually vexes the zealous readers of the contrary party. Whoever in an account of a journey, or in the History of a nation, relates things that are glorious to his own country and religion, and shameful to foreigners and other religions, cruelly vexes the readers who are not prepossessed as he is. The perfection of an History consists in being unacceptable to all sects and nations, for it is a sign the writer neither flatters nor spares any of them. Many readers fall into such a rage when they meet with certain things in a book that they tear the leaf, or write in the margin, *Thou liest, rogue, and deservest to be bastinadoed.* None of these things can be alleged as a reason why authors should be tried at the bar of Morality; the Critics are their only judges.

The only thing, therefore, that may be further objected, is that Morality is concerned in the representation of obscene objects, because it is apt to excite unlawful desires and leud thoughts. But this objection is not so strong against me as against those who use the covers, reserves, and nice ways of wrapping up things, which some complain I have neglected; for they do not hinder the impression of the object upon the imagination, but imprint it without any shame and indignation. They who use such covers do not intend to make themselves unintelligible; they know every body will understand what they say, and it is certain they are perfectly understood. The delicacy of their touches has only this effect, that people look upon their pictures the more boldly because they are not afraid of meeting with nudities. Modesty would not suffer them to cast their eyes upon them if they were naked obscenities; but when they are dressed up in a transparent cloth, they do not scruple to take a full view of them, without any manner of shame, or indignation against the Painter; and thus the object insinuates itself more easily into the imagination, and is more at liberty to pour its malignant influence into the heart than if the soul was struck with shame and anger; for those two passions exhaust almost the whole activity of the soul, and put it into such a trouble that it can hardly have any other sentiment. At least it is certain, that obscenity cannot act so strongly upon a soul overwhelmed with shame and anger, as upon one that is free from confusion and vexation. *Pluribus intentus minor est ad singula sensus.* When the soul is affected with one passion, it is less susceptible of another

Add to this, that when an obscenity is expressed only by halves, but in such a manner that one may easily supply what is wanting, they who

see it finish themselves the picture which sullies the imagination; and therefore they have a greater share in the production of that image than if the thing had been fully explained. In this last case they had been only passive, and consequently the admission of the obscene image would have been very innocent; but in the other case they are an active principle, and, consequently, are not so innocent, and have more reason to fear the contagious effects of that object, which is partly their work. Thus this pretended regard to modesty, is really a more dangerous snare; it makes one dwell upon an obscene matter in order to find out what was not clearly expressed. And is this a matter fit to be suggested to the reader's meditation? Were it not better to prevent his stopping at it?

XII. This is of still greater force against the writers who seek for covers and reserves. Had they used the first word they met with in a Dictionary, they had only touched upon an obscene gibe, and gone presently over that place; but the covers they have sought out with great art, and the periods they have corrected and abridged, till they were satisfied with the fineness of their pencil, [have] made them dwell several hours upon an obscenity. They have turned it all manner of ways; they have been winding about it, as if they had been unwilling to leave such a charming place. Is not this *ad sirenum scopulos consenescere*, to cast anchor within reach of the syren's voice, and the way to spoil and infect the heart? It is certain, that excepting those who are truly devout, most of our other Purists are not in the least concerned for modesty, when they avoid so carefully the expressions of our ancestors; they are professed gallants, who cajole all sorts of women, and have frequently two mistresses, one whom they keep, and another who keeps them. Truly it becomes such men very well to exclaim against a word that offends modesty, and to be so nice when something is not left to be supplied by the reader's imagination! We may apply to them what Moliere said of a pretended prude: "Believe me, those woman who are so very formal are not accounted more virtuous for it. On the contrary, their mysterious severity, and affected grimaces, provoke all the world to censure their actions. People delight to find out something to blame in their conduct. And to give an instance of it, there were the other day some women at this play opposite to our box, who by their affected grimaces during the whole representation, and turning aside their heads, and hiding their faces, made people tell many ridiculous stories of them, which had never been mentioned if they had not behaved so; nay, a footman cried out that their ears were chaster than all the rest of their body. The men I speak of think only of making themselves admired for the delicacy of their pen."

The Jansenists are accounted the best Moralists; and I do but follow their opinion, when I say that a gross obscenity is less dangerous than

one that is nicely expressed. I am not ignorant, says one of them, "that people call *ordures* only such words as are grossly obscene; and *gallantries*, those which are expressed in a nice, delicate, and ingenious manner; but gross obscenities, though covered with a witty ambiguity, as it were with a transparent veil, do not cease to be obscenities; they do not less offend chaste ears, defile the imagination, and corrupt the heart; a suttle and imperceptible poison is not less mortal than a violent one. There are some encomiums upon modesty, which modesty itself cannot bear. Witness that of Father le Moine. The gross obscenities of a Carman or Porter are not by a great deal so pernicious as the ingenious words of a cajolling spark." This Jansenist having mentioned some gallant thoughts vented by Father Bouhours, under the name of an interlocutor in a dialogue, which are expressed in very nice words, goes on thus: "All parents, *not excepting those who are most engaged in the world, will acknowledge that those pernicious fooleries* are MORE DANGEROUS *than* GROSS obscenities; that they corrupt the hearts, and make the worst of impressions upon the minds of youth." I have quoted in my Dictionary a passage of Mr. Nicholle, wherein he positively affirms that unlawful passions are the most dangerous when they are covered with a veil of modesty.

This cannot be denied. Nay, women of an imperfect virtue would run less danger among brutish men, who should sing filthy songs and talk roughly like soldiers, than amonge polite men who express themselves in respectful terms. They would think themselves indispensably obliged to be angry with those brutes, and to quit the company, and go out of the room with rage and indignation. But soft and flattering compliments, or at most such as are intermixed with ambiguous words, and some freedoms nicely expressed, would not startle them; they would listen to them, and gently receive the poeson.

A man who courts a maid would immediately destroy all his hopes should he grossly and filthily propose his ill design; he is a perfect stranger to the Art of Love, if he has no regard to modesty in the choice of his expressions.

There is no father but would rather have his daughters blush than laugh at some stories told in their presence. If they blush, they are safe; shame prevents the ill effect of the obscenity; but if they laugh, it makes an impression, and nothing diverts the stroke. If they laugh, it is doubtless because the obscenity was artfully wrapped up, and seasoned with an apparent modesty. Had it been grossly expressed, it would have excited shame and indignation. Farces in our days are more dangerous than those of our ancestors: In former times they were so obscene that virtuous women durst not appear at them; but now they do not scruple to see them under pretence that obscenities are wrapped up, though not in impenetrable covers. Are there any such? They would bore them

through, were they made up of seven hides like Ajax's shield.

If any thing could make La Fontaine's Tales very pernicious, it is their being generally free from obscene expressions.

Some ingenious men, much given to debauchery, will tell you that the satires of Juvenal are incomparably more apt to put one out of conceit with leudness, than the most modest and most chaste discourses that can be made against that vice. They will tell you that Petronius is not so dangerous, with all his gross obscenities, as he is in the nice dress of Count de Rabutin; and that the reading of the book intituled, *Les Amours des Gaules*, will make gallantry much more amiable than the reading of Petronius.

It were wrong to conclude from what has been said that the least evil would be to use the expressions of Porters. That is not the case. I know the Stoics laughed at the distinction of words, and maintained that every thing ought to be called by its proper name, and there being nothing dishonest in the conjugal duty, it could not be denoted by any immodest word, and that therefore the word used by clowns to denote it is as good as any other. You may see their sophisms in a letter of Cicero. Perhaps it were no easy thing to silence them by the way of disputation, but they do not deserve to be admitted to dispute on that subject. What has been accounted a rule of decency and modesty in all societies, time out of mind, and with the unanimous consent of the public, ought to be looked upon as a first principle, which no man is allowed to contradict. And therefore when a whole nation agreed in calling some words immodest, that the very Porters who use them most are persuaded of their obscenity, and abstain from them before persons of honour, and would be offended to hear them pronounced in a public assembly no private person can be admitted to oppose such a judgment. All the members of the society are obliged to respect it. The courts of justice afford us a remarkable instance of it: for Lawyers are not allowed to repeat such words, when they plead for the punishment of those who have used them in reviling their neighbours. They will have public modesty respected in the hearing of a cause; but when they judge by report, they not only permit the reporter to mention the very words of the offender though never so obscene, but also command him to do it. This I have from a Counsellor in the Parliament of Paris, who told me within these few years that, having used a circumlocution the first time he reported such a cause, the President gave him to understand that there was no occasion to have a regard to chaste ears, but to judge of the nature of the offence, and that therefore he was obliged to speak the very word it consisted in. I fancy the Inquisition uses the same method.

The Stoics must have followed very near the same rule, and if in their private conferences they did not think fit to prefer one word to another, there was at least a necessity for them to conform in public to the com-

mon way of speaking. The unanimous consent of nations ought in that respect to be the standard of all private persons.

Wherefore if the word *putain* [a whore] which our forefathers used in their gravest books, as freely as the Romans used the word *meretrix*, begins to be generally decried, it is fit all authors should begin to disuse it, and substitute the word courtezan in the room of it, since the world will have it so. But this is at the bottom a groundless nicety, for either the word courtezan excites as strong an idea as the other, or a weaker one. If the former, there is nothing gained by it; every body will still have a notion of an infamous object: if the latter, it is lessening the abhorrence which the public ought to have for a prostitute. But does such a creature deserve such a regard? Were it not better to aggravate the infamous notion of the trade she professes? Are you afraid of making her too odious? You are for giving her a favourable name which formerly signified a court-lady. One would think you are afraid of offending her, and willing to soften people's mind by giving her a quaint name. The consequences of which would be, if people reasoned right, that the word courtezan would quickly grow obscene, and a softer one should be used for it. One should say, *a woman who behaves herself ill;* and then, *a woman that is talked of;* and then, *a suspicious woman;* and then, *a woman who does not live a holy life*, and at last desire the most finical ladies to invent some other circumlocution.

I am just now sensible of another objection. It is a piece of incivility, will some say, to insert in a book what cannot be spoken in the presence of virtuous women: and therefore since incivility is blamable, morally speaking, the fault for which you may be blamed does not concern Grammar, but Morality.

I answer, in the first place, that incivility morally speaking is an ill thing only when it proceeds from pride, or a wilful contempt of other men; but when one is wanting in point of civility, either because he knows not the way of expressing it, or does not think himself obliged to follow it, he is guilty of no sin. Do ye think that an old Professor of the Sorbonne is bound to know all the arts that are practiced by the young Abbés of the court, to express their respect to the ladies with great politeness? That Professor has other things to learn which are much more important; and though he were informed what sort of civility is in fashion, he might lawfully dispense with it. His age and character do not require he should conform to it, but rather the contrary. I add, that new civilities are a slavery introduced by great men, or invented by their flatterers, to the prejudice of ancient liberty. But if it be lawful for every private person to depart from the old custom, it is also lawful to keep it till every body has laid it aside, and it becomes some persons not to be too hasty in taking up new modes. It is with this as with fashions in cloaths. Worldly people immediately appear in the new fashion, but

the grave and wise do it only when it is grown adult, if I may be allowed to say so. A medium ought to be kept in those things; a man must not be one of the first who takes them up, nor the last who leaves them: and none makes himself ridiculous by keeping the old fashion, but when it is quite out of doors.

I answer in the second place, that an author is not bound to suppress all the words that cannot be civilly spoken in the presence of virtuous women: Witness—de St. Olon, who is no stranger to the ways of the court; he would not have said before the ladies in a serious conversation what he has writ concerning the marriages of the Africans.

There are many reasons for taking a greater liberty in a book than in conversation. An obscenity spoken before virtuous women in good company, makes them very uneasy; they cannot ward off the shocking blow; it is not in our power to hear or not to hear what we are told in Vulgar Tongue. The accidental meeting of a naked man, or the sight of a leud picture, is not without remedy; we may immediately turn aside, or shut our eyes; but we cannot stop the mouth of a talking man. The shame occasioned by an obscene idea is much greater when we are surrounded with people who observe our looks. The confusion and perplexity of a virtuous woman on such an occasion makes her very uneasy; this uneasiness is attended with indignation, because men do not use to talk so before women whom they respect, and think to be honest, but before women of whom they have an ill opinion. There are no such inconveniencies with respect to a book. If there is any thing in it which in your opinion is unchaste, you may read it or let it alone. For instance, you may foresee that the article of the courtezan *Lais* in my Dictionary will contain some lewd quotations; do not read it. Let some trusty persons take a view of the book, before you undertake to read it, and let them inform you of what is to be passed over. Besides, a woman who is alone when she reads a book is not exposed to the looks of a company, which is the thing that most perplexes and confounds her; and because an author speaks to no body in particular, she does not think herself slighted or offended.

But after all you could not but know, will some say, that there are now many women who read books of literature; and therefore you should not have been contented with what you call common civility; you should have observed the nicest and the most rigid civility, that the fair sex might not find any thing in your book that might sully their imagination. My answer is, that had it been possible by observing such a rigid civility to prevent the reader's finding any such thing in my Dictionary, I had willingly submitted to the rules of the Purists, who come nearest to the taste of precise women; but I was fully convinced that the greatest niceness cannot remove any image of an obscene object

from the mind of the reader. This will not be easily believed, unless I shew the truth of it with the utmost evidence.

In order to do it, I need only prove this single proposition: *The most obscene and the most modest words that can be used to denote a filthy object do both paint it with an equal force and liveliness in the imagination of the hearer, or the reader.* This seems at first a great paradox, and yet it may be made sensible to every body by a popular argument. Let us suppose one of these adventures, which are sometimes the talk of a whole town, a marriage ready to be celebrated, and suspended all of a sudden by the opposition of a third person. This third person is a young woman, who happens to be with child, and demands that the marriage her lover has contracted with another should be declared void. Let us suppose that a very virtuous woman, who has heard of this opposition only in general, is willing to know what reasons that young woman has for it. She might be answered a hundred different ways, without using the words which a porter, or a debauchee uses in such cases. She might be told, *she has the misfortune to prove with child; he has enjoyed her; he has kept her company; they have been too intimate together; he has had to do with her; he has had the last favor of her; she has granted him the most precious thing she had, as it appears from the consequences; what passed betwixt them, cannot be modestly spoken, chaste ears would be offended at it; she is obliged to get her honor repaired.* Several other phrases better wrapped up might be found out in answer to the question of that virtuous woman; but all of them would imprint in her mind the filthy and brutish action which has produced that young woman's pregnancy, as strongly as Michael Angelo could have done it upon a cloth; and if that virtuous woman had heard by chance the bawdy word whispered by a debauchee in the ear of another debauchee, to let him know the matter, she could not have a clearer notion of the thing. No person, though ever so modest, can sincerely deny what I have been saying, if they will examine what passes within their breast. It is therefore certain that the most modest and the most obscene words equally defile the imagination, when the thing denoted by them is a filthy object.

Though you use the most modest expressions employed in the *Scripture, to* represent what we call conjugal duty: *Adam knew his wife Eve; Abraham went in unto Hagar; I went unto the prophetess,* you will never be able to blot out the image of that object; it will be imprinted in the mind as strongly as if you used the porterly language. The same may be said of the phrases, *to consummate a marriage, the marriage was consummated, the marriage was not consummated,* expressions which, if I may say so, are consecrated, and cannot be avoided in the most serious relations, and the most Majestic Histories; those words raise the same idea as the words of a ploughman.

But how comes it then, will some say, that a virtuous woman is not offended with veiled expressions, and is angry with a filthy word? I answer that their indignation proceeds from the accessory ideas which attend such a word, but do not attend a phrase which is veiled. The impudence of those who express themselves like porters, and their want of respect, is the true cause of such an indignation. Their expression excites three ideas: One is a direct and main idea; the others are indirect and accessory. The direct idea represents the filthiness of the object, and does not do it more distinctly than the idea of another word. But the indirect and accessory idea represent the disposition of the person who speaks, his brutishness, his contempt of the hearers, and his design of affronting a woman of honour. This is what she is angry at. She is not offended, as she is a modest woman; for under this notion nothing can offend her but the object itself which sullies the imagination; but she is not offended at that object, for if it had been represented to her imagination with other phrases expressing the obscenity as effectually as the filthy word, she would not have been angry; and therefore her vexation proceeds from some other reason, I mean from her being uncivilly used. Hence it is that a woman of gallantry will often express a greater indignation against those who talk obscenely to her, than a virtuous woman [will], because she takes it for an insult, and a bloody affront. Her resentment does not proceed from the love of chastity, but from pride and a desire of revenge. As for virtuous women, who are provoked at a gross obscenity, they are so out of a reasonable principle of self-love; for reason requires they should resent an injury which deprives them of the respect due to their sex; and besides it is very reasonable they should keep up a good reputation, which they could not do, should they suffer the same things to be said to them which are said to leud women.

Thus I prove that it was impossible to leave out of this Dictionary every thing that sullies the imagination. It must be sullied, which way soever the reader be told that Henry IV had natural children.

It is therefore enough for me to keep within the bounds of common civility. If any one was so great a lover of purity as to wish not only that no immodest desire should arise in his mind, but also that his imagination should be constantly free from every obscene idea, he could not attain his end without losing his eyes and his ears, and the remembrance of many things which he could not choose but see or hear. Such a perfection can not be hoped for whilst we see men and beasts, and know the signification of certain words which make a necessary part of our language. It is not in our power either to have or not to have certain ideas when certain objects strike our senses; they are imprinted in our imagination whether we will or not. Chastity is not endangered by them, provided we do not grow fond of them, and approve of them.

If chastity was inconsistent with impure ideas, we should never go to church, where impurity is censured, and so many banns of matrimony are bid; we should never hear that office of the Liturgy that is read before the whole congregation on a wedding-day; we should never read the most excellent of all books, I mean the holy Scripture; and we should avoid, as so many infectious places, all the conversations where people talk of pregnancies, childbirths and christenings. Imagination is a rambler which runs in a monent from the effect to the cause, and finds the way so well beaten, that it goes from one end to the other, before reason has time to stop it.

There is another consideration which may teach the compilers of Literature that it is enough for them to keep within the bounds of common decency; I mean, that they must not expect to be read by people whose ears and imagination are so tender as to receive dangerous impressions from the least obscene object. I do not know whether it was reasonably supposed in ancient Rome that the filthy words which little children were taught to speak in a chamber of the bride, were the first she had heard; but I am persuaded that, in our days, any person of either sex who has been conversant in the world four or five years, has heard abundance of obscene things, especially in such countries where jealousy is not tyrannical. There people enjoy a great freedom; merry conversations, parties of pleasure, feasts, and country journies are very common; they think only of passing away the time merrily. It is true, the presence of the fair sex prevents obscenities from appearing barefaced, but they appear in a disguise, which, as I have shown above, does not hinder the impression of a filthy object, no more than if one should use the plain words of a clown. Women dare not be angry when things are wrapped up, for fear of being accounted finical and precise. This is a mere dispute about words; the thing signified is admitted, but not all the words which signify it. Therefore, an author may very well believe that his readers will not be surprised, being strengthened and hardened by custom.

It is certain, that women who read a book of Literature do not begin with that; they have already read romances, plays, and love poems. They are therefore sufficiently experienced. There is nothing in my Dictionary that can daunt them, after they have encountered such enemies. If the *luxurious* Music of Operas, the tenderness of Tragedies, the licentiousness of Comedies, and the affecting descriptions of the effects and disorders of love, make no dangerous impressions upon them, they need not be afraid of reading the articles of *Abelard* and *Heloisa*. If they find shocking passages in my Dictionary, their pain will soon be succeeded by the agreeable pleasure they will feel in having given to themselves fresh proofs of the strength of their modesty. If they delight in such passages, and spoil themselves by dwelling on them.

that will not be my fault; they must blame their own depravity. Do I not show these things to be criminal?

This is what I had to say upon the first of the two questions which I was to discuss. I hope the reader will be sensible of the whole force of my justification, and own, that if there is in my Dictionary any obscenity liable to censure, it does not proceed from the expressions I use when I speak of myself. Let us inquire now whether it consists in the things themselves, either when I have set down the words of other authors, or have given only the sense of them. This is the question I have undertaken to examine.

No man can answer this question in the affirmative, without laying down these two positions: 1. That an Historian is obliged to suppress all the leud actions which are to be found either in the lives of Princes or those of private persons. 2. That a Moralist, who condemns leudness, ought never to mention anything that offends modesty. The Purists I have been speaking of must necessarily admit these two positions, and it is certain there have been at all times many people who have condemned the histories and invectives, in which the disorders of leudness appear under dreadful images.

If our Purists are willing to argue consistently, and to keep constantly to their maxims, they must admit the two positions I have mentioned. They must say, 1. That an Historian ought barely to observe that Charlemagne, the two Joans of Naples, and Henry IV. of France were not chaste. 2. That a Preacher, and a ghostly Father, and any other man who desires the reformation of manners, ought to censure leudness only in general. I have quoted an author who continually condemns the Historian Mezerai for mentioning some particular facts which offend chaste ears. He censures him particularly for what he says of Margaret de Valois the first wife of Henry the Great.

There have been such Purists in all ages; but there have always been also great authors who laughed at the scruples and fancies of these men; so that the Republic of Letters has always been divided into two parties upon this head—each of them alledged their reason and authorities; each of them raised objections, and made answers, and no supreme tribunal did ever determine the matter. I am therefore dispensed with entering upon a long discussion: this affords me a short way to come off. For if they who despised the maxims of the Purists, did always make a considerable party in the Republic of Letters; if they always *maintained their right, if that difference has never been decided*, every man may lawfully side with them, and believe at least, that it is probable they are in the right. No man can reasonably be denied the privileges of the doctine of probability in this case. They who follow the Anti-Purists, are not reduced to two or three grave authors; they may be reckoned by hundreds, and may strengthen their cause by the decisive

example of the inspired writers. If you peruse the book of Genesis you will find that Moses tells us without any compass of words, that two daughters having made their father drunk, lay with him, and had children by him; that Dinah, Jacob's daughter, was ravished; that Judah, the son of the same Patriarch, defiled himself in an open road with a woman he took for a prostitute, but she was his daughter-in-law and knew him very well; that one of the sons of Judah . . . ; and that Reuben, eldest brother to Judah, committed incest with a wife of his own father. There are many things in Leviticus which are not proper to be read in Protestant churches. An abominable action is related in the book of Judges. The Prophets used the most energic expressions to represent the turpitude of leudness. See also the description of whore in the Apocalypse. They have used some comparisons which the Ministers durst not mention entire. All the Protestant tradesmen of France could tell the Popish missionaries, disputing about the merit of good works, that *all our righteousness is as filthy rags;* but the remaining part of the passage was unknown to them, because it was not put into Controversial books. Has St. Paul, in his Epistle to the Romans, such a regard to chaste ears as our Purists require? Does he not describe in both strong and plain expressions the abominable impurities of the Heathens?

If it be objected, that the sacred writers have privileges peculiar to them, *sunt superis sua jura*: I answer, that not only the gravest Heathen writers, but also the Antient Fathers of the Church, wrote with the same freedom. When Livy does so gravely and majestically relate the suppression of the Bacchanalia, he discovers several abominations, which sully the imagination, and cannot be read with out horror. Seneca, the gravest and most rigid Philosopher of Ancient Rome, describes the most infamous leudness in the plainest words. He condemns it with all the severity of a Censor, but at the same time he makes a plain and almost naked description of it. When the Fathers of the Church speak of the Gnostics or Manichees, or such sects, they relate several things which not only defile the imagination, but also makes one's stomach rise, and might serve for a vomit. Arnobius, in his invectives against the Heathen, is so little cautious in his words, that M. de la Fontaine would certainly have dressed such things more cleanly, and had been more reserved in what concerns Priapus. St. Augustin, on some occasions, expressed himself in very plain and obscene words. St Ambrose and St Chrysostome have done the like; nay, the latter maintained we ought to do it in order to inspire a true abhorrence for such leud actions as we describe. Casaubon did not approve this method; but he must permit us to believe that his opinion about moral questions is not to be compared with that of so great a Saint.

If a catalogue was made of all the Historians from Suetonius down to Mezerai, who have grossly related leud actions, it would fill up many

pages; and if it be said that Suetonius has been blamed by famous authors, my adversaries can take no advantage of it, since those who vindicate him, are so eminent as those who find fault with him.

There is a vast number of Moralists who have deplored the corruption of their age, and given a plain and naked account of the several excesses committed in it. I do not pretend to excuse all the Casuists; but I can positively affirm that in the Church of Rome none of them can avoid saying many things that offend modesty. It is well known that Father Natalis Alexander declared for rigid Morality, and was engaged in many quarrels upon that account. I perused the other day in his Moral Doctrine what concerns the sins forbidden by the seventh commandment, and hardly found any period in it but what contains gross obscenities; and yet I think he is one of those who treat such matters with the greatest modesty; but it is a subject that does not permit a writer to have a tender regard for modesty. The same may be said of the Canonists, and those who write Anayomical books; and to show that to this very day men of a good taste and great politeness side with the Anti-Purists, I shall set down a passage of the author who criticized M. de St. Evremond. *Do not we see still*, says he, *in the Theological treatises of human actions, the explication of all the lewd thoughts and actions that can be suggested by lust? Those explications are not contrary to modesty, being necessary to those whom God has appointed for the direction of others, who ought to have a perfect knowledge of sins, with all their circumstances, in order to make a sinner sensible of the condition he is in, and work his repentance. But if you insist that those treatises are inconsistent with modesty, find out a science more contrary to it than Anatomy, wherein all the parts of human bodies are viewed. Yet there is no law against those who teach it.*

The party of the Anti-purists would be more numerous than it is, were it not that the vanity or malice of the Critics engage several writers to side with the contrary faction. There is hardly any book but what is criticized, and narrowly examined; and if there are any thoughts or expressions in it that want a certain niceness, with regard to obscenity, several writers will rise up against it, with offended modesty. They fall upon that topic, and raise many clamours. Nothing can be more easy, nor more proper to prepossess the public. A Critic who strikes upon that key is cried up by devout and polite people, and accounted the protector of purity; this is the reason which induces him to declare for the Purists. He raises his reputation two ways: He sets up for a man who is for good manners, and who converses with the polite world. This is only a piece of craft in an author; Morality is no further concerned in it than is necessary to form a fair out-side. Many who criticize books only in conversation, follow the footsteps of the Critics in print. How many people inveighed against the book *de contactibus impudicis* and the *Historia Flagellantium*, because Dr. Boileau was none of their cabal

in faculty of Theology? Had the author, who is a man famous for his probity and learning, been of their party they would have approved his giving a lively description of the obscenities censured by him; but because they did not love him, they sided with the Purists.

But though this faction be ever so numerous, either through such motives, or more honourable ones, it is certain the contrary party is considerable enough to justify those who stand for it. The authority of the antient Fathers of the Church who followed it, and therein imitated the prophets and Apostles, makes their opinion so highly probable that if any one should obstinately maintain that it cannot be held with a safe conscience, he would not deserve to be minded.

If the Purists were contented to say that their opinion is better, we might think ourselves obliged to debate the matter with them, and to compare together the reasons of both parties, though in truth it seems very strange that Christians should question whether there is a better course to be taken than that of the sacred writers. However we might yield our right, hear their objections, and propose our difficulties, I have no need of such discussions; it is enough for me that the conduct of the Historians or Censurers, who relate obscene things, is not only allowed and authorized by a constant practice, but also very good.

For if those authors could lawfully write what I have written, I might imitate them, and lawfully quote them. I desire no more. Others may examine, if they please, whether I had done better in taking quite another method.

The right I have to quote what I have quoted, is grounded upon two reasons: One is, that if every body is allowed to read Catullus and Martial, Etc., an author may be allowed to quote out of those Poets such passages as he thinks fit. The other is, that if it be lawful for an Historian to relate a leud action of Caligula, an author may relate an obscene thought or remark of Montagne or Brantome; for such a thought or remark is not near so criminal as the infamous actions of Caligula. Whoever has a right to mention the latter, has *a fortiori* a much greater right to mention the former; and it would be a contradiction or an absurdity, to suffer that Petronius and Suetonius, and the most lascivious Poets, should be printed and publickly sold with notes explaining their most brutish obscenities, and to forbid the author of a Critical Dictionary, attended with a Commentary, to alledge a passage of those writers for the confirmation or illustration of some particular.

Here I must examine three objections that are commonly raised: It is said that a physician and a Casuist are obliged, by the nature of their subject, to rake into many filthy things, but that my work required nothing like it. 2. That they who write in Latin, may take a liberty which the French tongue will not bear. 3. That what was allowable in

former ages ought to be forbidden in ours, because of its prodigious corruption.

The first objection can be made only by such readers as are utter strangers to the nature of my book. It is not a book like those that are intituled *Bouquet Historical Fleurs d' Exemples. Parterre Historique, Lemnisei Historiarum*, in which an author inserts only what he pleases. It is an Historical Dictionary with a Commentary. Lais ought to have a place in it as well as Lucretia; and because it is a Dictionary which comes out after several others, it ought chiefly to contain what is not to be found in others. The reader must find in it, not only a general account of such actions as are most known, but also a particular narrative of those which are least known, and a collection of what is dispersed in several places. Proofs ought to be alledged, examined, confirmed, and cleared. In a word, it is a compilation. Now every body ought to know, that *a compiler, who relates things, and comments upon them, has all the privileges of a Physician, and of an Advocate, &c., as occasion requires; he may use their verbal processes, and their terms of art. If he gives an account of the divorce of Lotharius and Tetberga, he may publish extracts from Hinemar, Archbishop of Rheims, who wrote the impurities that were averred in that trial.* This is what I said in my Remarks upon the pretended Judgment of the Public, in the year 1697. I repeat it with this other passage: "When I am let into the secret of collecting in a compilation all that the Antients have said concerning the courtezan Lais without mentioning leud actions, I shall own myself guilty. It must at least be proved against me that a Commentator has not the privilege of collecting whatever has been said of Helen; but how can it be proved? Where is the Legislator who has told the compilers, *Hitherto you may go, but you must advance no further*; *You must not quote Athenæus, nor such a Scholiast, nor such a Philosopher?* Has it not been their constant practice to make their writings as full and extensive as their reading." I could name many Divines, who, having pitched upon a certain subject, have quoted out of all authors whatever they thought fit, though they were things that defiled the imagination; I shall name only three, Lydius, Saldenus and Lomeier. They were Dutch Ministers, the first at Dort, the second at the Hague, and the third at Zutphen. They were very much esteemed for their learning and virtue. Whoever reads the dialogues of the first concerning nuptial ceremonies, the Dissertations of the second *de Canis pretio*, and *de Eunuchis;* and the Dissertations of the third concerning kisses, will find in them horrid obscenities, and abominable quotations.

It will be said, that these books are written in Latin. This is the second objection I am to answer, and I shall show easily the weakness of it, for an obscene object is no less offensive to modesty when it offers itself in Latin to those who understand Latin, than when it offers itself in French

to those who understand French; and if it were a fault to imprint obscene objects in our own and the reader's imagination, these three Ministers could not be justified. They understood what they wrote, and made it intelligible to their readers, and consequently they have defiled their imagination, and do every day defile the imagination of those who read their books. But were it not a very unjust thing to charge them with such immorality? They who write in French ought not therefore to be charged with it, for they do no more than understand what they write, and make it intelligible to their readers.

I know two differences will be alledged; one is, that they who understand Latin, are not so many as they who understand French. The other is, that they who understand Latin are better provided than others against the malignant influence of obscene objects. I make three answers to this. I answer in the first place, that Latin is understood by so many people all over Europe that the first difference would not be sufficient to justify those who relate or quote obscene things in that language; the mischief would still be great, and very great. I answer in the second place, that it is only by degrees that study corroborates a man against objects which sully the imagination; and therefore Latin obscenities could still have a dangerous effect upon young scholars. We hardly find, generally speaking, that they are more chaste and less debauched than the other young men. Lastly, I say that most of my readers are persons who have applied themselves to study; for they who have not studied, little mind a book intermixed with Greek and Latin passages as mine is. However, they cannot understand the chief obscenities, since they are in Latin. I conclude, that if there is any solidity in the differences objected to me, I may make an advantage of it.

I proceed to the third objection, which concerns the great corruption of our age. We have lost, say they, modesty both in morals and in expressions. The words that were formerly modest, are no longer so; we must use others which excite only modest ideas; otherwise we should lose the little virtue that remains. I shall not examine whether there is any reason to believe that men are now more corrupt than they were in former times. The same complaints have been made at all times, and that very thing ought to make us suspect the truth of them. I can hardly believe that the corruption of our age is equal to that of the reign of Charles IX. and Henry III. But allowing it to be so, I shall draw a quite contrary conclusion from it; for it is never so necessary to represent in a strong and lively manner the turpitude of vice as when it prevails most; and it is a wrong way of stemming the current of leudness to cry it down with soft words, and to scruple to give an odious name to a prostitute. Besides, if there is so great a corruption, what benefit has the world got by that chastity of words introduced into the French tongue within these sixty years, according to M. Chevreau's calculation? Is

it not a proof that the proscription of pretended obscene ideas is an insignificant remedy? Who told you they ought to be proscribed, for fear of entirely destroying modesty? Have you consulted the women for whose sake you chiefly abstain from those words? Have they confessed to you that their honour is very much endangered by them? Would they not rather say that you slander them if you believe they are not proof against an idea and a word? Would they not tell you that if they are for words that express leudness faintly, it is in order to give a better idea of their virtue, which has a stronger attachment to modesty than that of their predecessors? They are not therefore afraid to be seduced by obscene objects. Such objects would rather give a new strength to their modesty. They are offended with them only because they think there is some unpoliteness and incivility in certain words. They who pretend that, considering the prodigious corruption of our age, all stories which they call obscene ought to be avoided, are like a traveller, who, in order to keep his dirty cloak from soiling, should take care not to put it in a smoaking room. If the depravation is so great that the reading of an obscene Historical fact might excite young people to commit adultery, you may be sure these young people are so many persons with the plague, whom you are afraid of making worse by placing them near a man who has got the Itch. A polite style and nice expressions will not cure such people, and stop them upon the brink of a precipice.

Certainly this is the Sophism called, *a non causa pro causa - to assign for the cause of a thing, what is not the true cause of it.* The fate of chastity does not depend upon that; you do not go to the source of the evil; it requires a quite different remedy. Young people have their minds full of obscene thoughts, and go through a course of filthy obscenities, at least in words, before they read Suetonius. Ill conversations, unavoidable to every lad who is not under continual inspection, are a thousand times more dangerous than Histories of debauchery. A learned man says that the French translation of Plutarch, by Amyot, *is dangerous to morality, because things are described in it with too great freedom and plainness, and there are some words in it that have now an immodest signification.* He will give me leave not to be of his opinion. The descriptions and phrases of Amyot's translation have nothing in them that come up to those that are daily heard and used in the world. To which I add, that if this version of Plutarch was dangerous to Morality, any other version of Plutarch would be too, unless the translator took care to leave out all the passages wherein things are described *with too great freedom and plainness.*

There is no medium. Either a book must never mention any impure action, or our censurers must own it will always be dangerous, though written ever so nicely. One translation will be more polite than the

other; but if they are faithful, the obscene objects that are in the original will appear in them.

M. Chevreau affirms that *faire des ensans* is a gross expression, and that we should say *avoir des ensans*, and this may be granted to him; but if any one should further say that the first expression is very prejudicial to good manners, and that the second is very beneficial to them, he would be accounted a silly, foolish man.

Upon a due examination of things, it will appear that the word *paillard* ought to be rejected only for the same reason that we reject the words *contaminer*, *vilipender*, *vituperer*, and a great many old French words: That is, it has no other fault but to be obsolete. They who have nice ears would be grated with the words I have just now mentioned. For the same reason, they are offended with the words *paillard*, and *paillardise*; for if the thing signified by them was the cause of their disgust, they could not endure the word *impudique*, whose idea is no less significant than that of *paillard*.

I shall make two more observations: The first is, that our Purists approve in general what they condemn in particular. Ask a Roman Catholic who is an enemy to the Quietists whether an Historian ought not to avoid touching upon things that sully the imagination? He will answer you, *it is his duty to do so.* Tell him some days after, that a relation of Quietism is come out, containing a particular account of the abominable impurity of Molinos's followers; give him to understand that you have been offended with the reading that book, and that modesty cannot bear such things. He will answer you that it is necessary to discover the abomination of those hypocrites, in order to undeceive many people who are inclined to Quietism, and that the author of that relation is therefore to be commended for exposing to the public view the infamous p tices of that sect. You will find a thousand other persons who will agree with you that we cannot have too great a regard for modest ears, and will exclaim with great zeal against Suetonius and Lamptifind: but if you ask them some days after whether we ought to excuse the Historians who have related so many abominable things concerning the *Albigenses*, the *Fratricelli*, *Adamites*, *Picards*, *Lollards*, and *Turlupins* they will answer that the character of Historians and zealous Catholics engaged them to acquaint the world with the obscenities of those heretics, the forerunners of the Lutherans.

The English Papists, who fled into France or Spain, did not offend the chaste ears of their friends when they published several satires against Queen Elizabeth, wherein they represented her as a monster of leudness. The Leaguers did not blame the libels, which contained impudent descriptions of the leudness of the court of Henry III.

The same inconsistency is observed among the Protestants. They did not complain that those libels against Henry III., their persecutor,

were offensive to chaste ears. Buchanan, who published a book concerning the leudness of Mary, Queen of Scotland, is a man of blessed memory among all the Presbyterians; and yet that book horribly defiles the imagination. Nicolas de Clemangis, Pelagius-Alverez, Baptista Mantuanus, and Court of Rome, are placed by the Protestants among the witnesses of truth. They quote them to this very day upon all occasions, and long passages out of those authors are to be found in most controversial books. You will find many of them in a French book of the famous Du Plessis Mornai; not long since three Ministers, two of whom are Swiss, and the third a Frenchman, have revived those quotations. Henry Stephens, who tells so many obscene stories in his apology for Herodotus, did not displease those of his party; that book was thought very proper to ridicule the Church of Rome, and was approved upon that account; there are several editions of it, and I hear it has been lately reprinted at the Hague. Can there be a greater collection of silly jests, quirks, and mean and obscene words, than what is to be found in some books of Sainte Aldegonde, who nevertheless was very much esteemed and Praised? The book which a German advertised in the *Nova Literaria Maris Balthici* in the year 1699, which is to be intituled, *Sacra Pontificiorum Priapeia, feu obscœnæ Papistarum in auricularibus confessionibus quæstiones, quibus S. Confessionarii innocentes puellas fœminasque ad lasciviam sollicitant*, will doubtless meet with a very favourable reception, and yet it will be very offensive to chaste ears, since it will contain a collection of the obscene questions of confessors. This puts me in mind of the illustrious Peter du Moulin, who objected to the Roman Catholics the obscenities that are to be found in their books concerning auricular confession. He took notice of some that are horrid, and no less abominable than the leudness wherewith Procopius accuses the Empress Theodora. Several Protestant controversists have published the obscenities that are to be found in the books of confessors.

But to speak of a thing of a later date, I say that the book intituled *Les Avantures de la Madona Et de Francois d' Assise*, published in the year 1701, is indeed written in very modest word, but the ideas which the author excites in the mind of the reader are so infamous, horrid, and monstrous, that none but Lucian, and such like men can bear their enormity. The Protestants are not offended at it; on the contrary they believe that the author, designing *to make every body sensible of the ridiculousness of Popery without engaging in any controversy, has done a service to the good cause.* Some complaints have been made of what he says in favour of Nestorius, but he has not been blamed for the other things he advanced, which, as I have said already, startle, terrify and smite both the soul and body. The Bishop of Meaux being obliged to mention a thing of the same nature in order to show the extravagance of

a fanatical woman, thought he had contracted some uncleanness, and for a remedy had recourse to this prayer: "But let us pass to another subject; and thou, O Lord, If I durst, I would beseech thee to send one of thy seraphims with a hot burning coal to purify my lips defiled with this narrative, though necessary." Take notice of this last word; it makes much against those who say that the imagination of the reader ought to be regarded even at the expense of truth. That prelate, who is otherwise so careful to avoid obscenities that he dares not use the word *paillarde* (whore) without making an excuse for it, did not think that the obscene and horrid extravagances of Madame Guyon ought to be suppressed.

I do not mean that, generally speaking, all the Protestants who have behaved as I have mentioned design to bring Historians, Compilers, and Commentators under the yoke of the purists. I only believe that several of them pretend to do it in general; but since they approve afterwards when they come to particulars what they had condemned, their taste and their testimony can do me no prejudice, and I may take advantage of the opinion of all the rest who are consistent with themselves, both in general and in particular.

It cannot be pretended that for the good of the Church an author may be allowed to write things that sully the imagination, and that in this case he is to be commended for doing it; this assertion, I say, cannot be admitted; for if the publishing of obscenities was an ill thing in itself, it could not be used for the benefit of the good cause, without transgressing against a command of God, importing that we must not do evil that good may come.

I proceed to the second observation. Have I not acted against this precept of Isocrates, *believe that whatever cannot be honestly done, cannot be honestly spoken?* And ought not this precept to be a law to all Christians, since St Paul would not have any thing that is filthy to be named among them? I answer, that this excellent axiom condemns only the ill custom which prevails among both young people and married men, to speak on all occasions of their leud practices, and impudently to discourse of every thing relating to that sort of sensuality. It is at least certain that the apostle never meant that men should forbear talking seriously, honestly, and historically of a leud action. He did not deprive parents of the liberty of examining their children concerning the Historical facts contained in the Bible, and making them repeat that Jacob's daughter was ravished, that a son of David ravished his own sister, Etc. Nothing can be more dishonest than this action of David's son, and yet there is no dishonesty in repeating, preaching, and printing it. Could St Paul forbid the mentioning of it? Would he have prohibited the reading of the Bible? Was he not willing that his letters should be read, and that the very children should know what he wrote

to the Romans concerning the abominable lives of the Heathen? A man must be mad to think that the precept of Isocrates means that a school-boy should never give an account to his tutor, or to his father, of such passages of the Iliad as concern the adulteries of the gods.

If one had a mind to carry the dispute to the utmost, he might say that robbing, betraying, lying, and killing, are dishonest things, and that there is no dishonesty in mentioning those crimes; but as it is evident that the precept of Isocrates concerns only sins contrary to chastity, such an objection would be a meer cavil. The Cynics and the Stoics made use of it to justify their doctrine, that there is no obscenity in any word; Cicero confutes them only by supposing that there is a natural shame.

It is time to conclude this long dissertation. The clearing up of this matter is more difficult than people imagine. I hope my justification will be fully approved, not by those who are too presumptuous to see that we labour to undeceive them, but by those who have been induced to believe on the credit of other persons, or upon light and superficial reasons. If they were excusable for being dazzled with specious appearances, before I published these four EXPLANATIONS, they can be no longer so if they obstinately persist in their error. They would have done well to follow the command of Jesus Christ, *judge not according to the appearances, but judge righteous judgment.* They have yielded to the first impressions of the objects, without waiting for the reasons on both sides; which is always necessary, especially when we are to judge of a writer who does not follow the most common road. We should immediately suspect that he has some reasons for it, and that he would not make such a step, if, upon a long examination of his subject, he had not considered it on every side more carefully than those who only read his work. This well grounded suspicion should have made people very cautious and slow in giving their judgment, but what is done cannot be undone; all that can be hoped is, that their second thoughts will be better than the first.

I shall here acquaint my readers that, in several places of this Dictionary, they will find some apologetical reflections immediately after such things as may offend scrupulous persons.

SECTION V

THE MODERN CENSORSHIP OF OBSCENITY

LOUIS F. POST: "Our Advancing and Despotic Postal Censorship." Reprinted from "The Public."

I.

SINCE long before the foundation of the Federal government, American public sentiment has cherished freedom of the press above every other condition of popular liberty except trial by jury. With the press untrammeled our fathers believed that no menace to liberty could really gain a foothold, if an innovation, or long endure, if already established; whereas, if the press were subject to censorship, they felt that autocracy would flourish as in their day it did throughout Europe and as in ours it still does in Russia.

They did not mean that the press should have license to attack personal reputations or offend public morals with impunity. They conceded that publishers should be held to account for libelous and indecent publications. But they insisted that guilt should be determined by juries, after the act, and upon a full hearing of both sides; and not by bureau officials in advance of the act and *ex parte*.

Much has been said against this view on the ground that it would permit the accomplishment of wrongs which once done cannot be undone; and it must be confessed that the objection is not without plausibility when particular grievances are considered irrespective of general effects. But our fathers realized that the greater danger lies in empowering officials to impose upon publishers a decree of silence. A person outraged by libel would be vindicated by the verdict that condemned his libeler; common standards of public morals would be strengthened by the verdicts of juries if the standards were true, and weakened by assault only in case they were false. But under a censorship, private outrages upon public rights might go unrevealed and unscathed; true standards of public morals might be perverted and false ones perpetuated; and with a pretense of protecting personal reputation and public morals, bureaucrats might insidiously undermine popular liberty.

Our fathers therefore made it a part of their political religion that every one should be free to print and publish whatever he would, subject to being held accountable therefor by a jury of his fellow citizens. So wedded were they to this theory of a free press accountable only to a jury of the people, that the result of a law-suit in the old Colony of New York was acclaimed throughout the Colonies and helped kindle the fires of

the Revolution, because the jury had found that an alleged libel against the Colonial authorities was justified and the publisher not guilty, notwithstanding that the Colonial judge before whom the case was tried had ordered the jury to convict.

So vital did this sentiment remain after the Revolution, that the Federal party went down in political wreck and ruin because it became responsible for the "sedition act," which evaded the principle of a free but accountable press by making libels against the President and other Federal officials triable before judges of the President's own appointment and juries selected by his own appointees.

So vital did that sentiment continue down the troublous century just ended, that even in the heat of the anti-slavery agitation a pro-slavery Senate revolted at a suggestion that anti-slavery newspapers be made unmailable.

We believe that this wholesome sentiment of liberty survives in the American mind. Though a great influx of foreigners in recent years—foreigners seeking not greater liberty as in earlier times, but only better wages—may have had the effect of making American landmarks of liberty fade in the public opinion of to-day, yet the autocratic conditions of which we get reports from Russia are abhorrent enough to stir even the dullest mind to some sense of the dangers which go with a bureaucratic censorship of the press. It is an innovation which we believe American public opinion would not consciously tolerate. Were any direct attempt made to subject to the control of a government bureau the right to print and publish freely, subject only to accountability to juries, it would surely overwhelm the political party responsible for it, as the Federal party of a hundred years ago was overwhelmed, with the condemnation of an indignant people. . . .

II.

Let us consider first how a situation so serious might come about.

If an autocratic coterie, acute, skilful and patient, were deliberately set upon the purpose of creating a press censorship like that of Russia, in a republic like ours, where the traditions and the laws guaranteed freedom of the press subject to accountability only to juries, and where public opinion clung tenaciously to the spirit of those traditions, how would that coterie begin?

Not by trying to repeal the laws nor by violently overriding them. Either would be a hopeless undertaking in those circumstances. Such a coterie would begin by trying to invest with censorial power that bureau of the government, if there were such a bureau, which managed the distribution among the people of written and printed matter.

In doing this, the coterie would at first carefully limit the censorship to such written and printed matter as was most intensely offensive to

public morals; for that would be along the line of least resistance. A vast majority of the people, their thought centered upon offenses against morality and drawn away from offenses against liberty, would cordially approve the innovation.

Later a similar censorship would be extended by this coterie of liberty-destroyers, to written and printed matter somewhat less offensive to public morals; and thus on and on by easy stages to such as was less and less offensive.

And the same acute discretion would be observed in the execution of those powers of the censorship. The bureau so invested with censorial authority would at first execute its powers only against violators of the most sacred tenets of public morality. As its censorial powers were thereby commended to public approval, they would be applied to less repulsive offenders or those who occupied debatable ground, some of whom might bring the subject into the courts.

But the courts, keen to see that a decision in favor of minor or dubious offenders would make a precedent favorable to the repulsive class, would prefer making a precedent against liberty to making one against public morals. A few such precedents against liberty, in the guise of precedents for morality, and the hardest work of the censor-seeking coterie would be nearly done.

The bureau could then begin, on pretense of suppressing immorality, to discriminate against the publication of legitimate opinions. Over this there would be a struggle in the courts. But when the courts had decided that the bureau was engaged in executive work, and that its interference therein with private rights, even to the extent of seizing and confiscating private property upon evidence satisfactory to the bureaucrat, must not be prevented, the censor-seeking work of the coterie would be complete.

After that, there would be nothing to limit the scope of the censorship. An object of sufficient importance to the coterie, and a confederate of sufficient nerve at the head of the bureau, would make a censorship which the crude censors of Russia might envy.

By deciding as to any periodical whatever, and however falsely, upon evidence satisfactory to himself, that its contents were offensive to public morals, the head of this bureau could effectually suppress that publication. And the mere fact that he could do this, would have a powerful effect in influencing all periodicals to support or oppose public policies as the persons or parties controlling the censorizing bureau might direct.

It is by insidious steps, such as are here suggested as possible, that the public opinion of free peoples has always been suppressed, and that their other liberties have been wrested from them in the consequent silence.

III.

Now, in this country there is just such a bureau as we have imagined above. It is known as the Post Office Department. That department controls the delivery and receipt of almost all the written and printed matter of the country. Nearly all private correspondence, nearly all books, nearly all periodicals, are circulated by its machinery. It has gone so extensively into the business of distributing letters and periodicals for the people that all business is dependent upon it, and any periodical against which it might discriminate could not long continue publication.

To invest this department with power to grant or refuse its distributing service to periodicals, with reference to its own judgment of the legitimacy of their printed contents, would be to place at its mercy every periodical which the department might wish to destroy.

But not only have we such a bureau in this country, in the Post Office Department, but that department has been gradually invested, in very much the manner indicated above, with the censorial powers outlined above as possible. And it has exercised those powers with similarly aggressive discretion. We do not mean that there has been a conscious and definite purpose of creating a dangerous censorship, as in the imagined case; but that there has been similar progress in a direction in which similar results are the inevitable ultimate.

The investiture of the Post Office Department with arbitrary censorship over the press, began (as we have indicated in our suppositions that such a censorship probably would begin), with legislation against such postal matter as was most intensely offensive to public morals. Obscene letters and papers were declared to be unmailable and the act of mailing them a crime. To this innovation objection was difficult. No appeal to the principle of freedom of the press could be made which would not seem like an attempt at shielding vile offenses with appeals to political traditions and abstractions—like opposing "mere generalizations" or theories of government to actual immoralities. Under cover of the silence which decency thus imposed, the postal censorship gained a foothold.

Then further steps were taken. The ban of unmailability was extended to mail matter in furtherance of frauds. Decency did not impose silence here, but what could be said against laws for the suppression of fraud? Nothing that would not make the objector seem to be an apologist for actual crime on pretense of devotion to a mere "theory of liberty."

Nor was much difficulty encountered in extending the postal censorship against obscene and fraudulent mail matter to mail matter in connection with lotteries. Public opinion had become ripe for excluding hat business from its old place in the category of the legitimate, and ob-

jections to this extension of the censorship were rebuked as sympathetic with lotteries, instead of being accorded a fair hearing in the interest of freedom of the press.

While censorial statutes were accumulating, criminal prosecutions which never got before the highest court were building up a mass of precedents, and rules and rulings of the Postal Department were establishing censorial lines of administrative procedure which have crystalized with time. And so it has come about that the Postal Department has acquired and is actually exercising the ominous censorial power to which we invite attention.

Upon decrees sent out from a bureau at Washington, all their correspondence is withheld from individuals, on the charge, established before no judicial tribunal, that at some time in the past they have solicited correspondence through the mails for purposes of fraud; and legitimate periodicals are suppressed, on pretense that they contain obscene language or sentiments. In none of these cases is the alleged offender given a jury trial, in none does his case come before a judicial tribunal, in all his nearest approach to a trial is before *attachés* of the censoring bureau which makes the charge, and in some the specific accusations are withheld from him.

IV.

With the details of one of these cases of newspaper suppression we have been at the pains to make ourselves acquainted. It is the case of *Lucifer*, a Chicago publication, issues of which have but recently been suppressed by the postal department. Our information relates to a previous suppression for the same alleged cause, and not to the recent one. Whether the latter would prove to be similar to the former we do not know, nor do we regard it as important to the point under consideration, which is not the propriety or impropriety of suppression in a particular case, but the dangers of suppression in this manner in any case. As the instance to which our information relates illustrates the tendency toward a censorship of the press, it is sufficient for the purpose in hand.

Our inquiry into the matter began with the following letter of January 27, 1904, to the postmaster at Chicago:

"I am informed that the Chicago office stopped the transportation as second-class matter of a Chicago weekly called *Lucifer*, the issue of December 17th; that the reason given was violation of section 497 of Postal Laws and Regulations; that nothing in apparent violation of that section appeared in the issue in question; and that your office refuses definite information. Will you kindly inform me, for public use, what the specific offense of the issue in question was?"

In his reply of January 29th, the Chicago postmaster courteously stated that the Chicago office had not originated the act of suppression,

but had merely obeyed orders from Washington. He wrote:

"The issue of *Lucifer, the Light-Bearer,* dated December 17, 1903, was refused admittance to the mails by direction of the Department at Washington, which ruled that matter in that edition was in violation of section 497 of the post office laws and regulations. Under date of December 19, 1903, the publisher was advised to this effect."

It will be observed that the Chicago postmaster did not deny that specific information of his offense had been withheld from the accused publisher, and that he did not give the information asked for in the letter to which his was in reply, namely—the specific offense. In this reticence he was doubtless, as events subsequently indicated, obeying orders from Washington. It is also to be observed that the publisher was not notified of the suppression until two days after his date of publication.

Having learned from the Chicago postmaster that he had acted under orders from Washington, and been tactfully though courteously refused information as to the specific offense of *Lucifer*, we extended our inquiry to the Postmaster General in a letter of February 13, 1904. In replying by letter of March 3, 1904, the First Assistant Postmaster General wrote:

"I have received your letter of February 13th, addressed to the Postmaster General, in reference to the exclusion from the mails of a publication entitled *Lucifer, the Light-Bearer.* The issue of December 19th contained matter which is unmailable under section 497, Postal Laws and Regulations, and therefore the Postmaster at Chicago was instructed to treat copies of that issue in his office in the same manner as other unmailable matter is treated."

Still we had failed to get information of the specific charge against *Lucifer*, sufficient to enable us by examining the paper to form a judgment as to the official good faith of its suppression; and from an examination of the whole paper we had been unable to discover anything apparently justifying the charge of violating the postal section referred to. Accordingly we asked of the Postmaster General, by letter of March 14th, 1904, that he do us the favor of indicating—

"the particular article or articles, by their title or otherwise, which are regarded by the department as unmailable under section 497? If you could indicate the particular paragraphs of the articles that are regarded as unmailable, I should be obliged."

In answer to that inquiry the Acting First Assistant Postmaster General, in a letter of March 29th, wrote:

"You ask that the particular article to which exception was taken by the Post Office Department be pointed out to you. If you will kindly call upon our Inspector in charge at Chicago, who has the copy of the paper to which you refer, that officer will be able to comply with your request."

An effort to act upon this suggestion, and the result, are described in

a letter of June 13, 1904, to the Postmaster General, in which, after a recital of previous correspondence, we wrote:

"There seems to be some misunderstanding, possibly on my own part, though I do not see how I am at fault. In reference to your Acting First Assistant's letter, I have called on the inspector in charge at Chicago and shown him your Acting First Assistant's letter. After reading it he told me that he could not supply me with the information because his assistant, Mr. McAfee, in whose charge the matter had been, was then out of the city, but that upon the return of Mr. McAfee he, the Chief Inspector, would notify me and supply me with the information. Accordingly, a few days later a messenger called at my office, and, I being out, left word for me to call up Mr. McAfee by telephone. When I did so, Mr. McAfee was out of his office. When I did so again, the next day, he had gone out of the city. But on the latter occasion the chief clerk in the Inspector's office, learning my identity and knowing my object, informed me that the Chicago office cannot furnish me with the requested information. He explained that the suppression of *Lucifer* under section 497 had not taken place under the initiative of the Chicago office, but had been ordered by the First Assistant Postmaster General, and that the Chicago office does not know what the objectionable matter was. In answer to my further inquiry he assured me, but with entire courtesy, that I might regard this reply as official and treat it accordingly. I am therefore under the necessity of again troubling your office in this matter. Will you kindly arrange in some proper and convenient way to supply me, for legitimate newspaper use, with the information I am seeking, namely, what are the particular articles, designating them if possible by their titles, on account of which the Post Office Department suppressed the issue of December 17, 1903, of *Lucifer, the Light-Bearer*, of Chicago, as unmailable under section 497 of the Postal Laws and Regulations, and what are the particular paragraphs of such articles in which the objectionable matter is to be found."

No attention having been paid to this inquiry, after the lapse of more than a month, we addressed the Postmaster General, by letter of July 23, 1904, offering to forward a copy of our letter of the 13th of June, if the original had failed to reach the Department. Still without reply, on the 19th of August, 1904, we wrote again to the Postmaster General, referring to our two previous letters and asking:

"Will you kindly give me the information requested in those letters or advise me of the time when you can probably do so, if delay is necessary?"

This request brought a reply from the Acting First Assistant Postmaster General, dated August 25, 1904, as follows:

"I have received your letter of the 19th instant calling attention to the fact that yours of June 13th had not been answered. Replying

specifically to your inquiry I have to state that the article on page* . . . and the article on page* . . . are, in the opinion of this Department, offensive under the Act of Congress approved September 26, 1888."

The reply gives no indication of the paragraph or paragraphs of the articles mentioned as containing the matter which in the opinion of the postal censor is unmailable, although this information was distinctly requested. We are obliged, therefore, if we would examine into the good faith of the censor, to consider the articles as a whole, word by word, thought by thought, from first word to last. This necessity is in itself significant of the arbitrary and secretive methods of the Department in passing upon questions involving freedom of publication.

Upon examination of the articles we failed to find anything, either in the thought alone or the phrase alone, which could be condemned by the ordinary standards of decency. While it is true that the colloquial phrasing is so ill-adapted to the sociological subject discussed as to offend good taste, taste is not yet subject to postal censorship. And while neither the subject nor the phrasing would be appropriate at a young people's party, this is no test of postal propriety.

The subject-matter, considered by itself, is a legitimate one for public discussion among adults; and, expressed in philosophical phrasing, it could not possibly be objected to as salacious.

The phrasing, considered by itself, is not out of the common in the current literature of fiction. If any well-known novelist had put these two articles, thought by thought and word by word, into the mouths of characters in a problem novel, it is almost inconceivable that any publishing house, other than the American Tract Society, would have suppressed them; and if the postal censors had condemned them as obscene by excluding the novel from the mails, a cry of derision would have echoed from one end of the country to the other.

The inference seems to us unavoidable, that the issue of *Lucifer* of December 17, 1903, was excluded from the mails, not because of any violation of the postal statute, but because it advocated doctrines of social life at variance with those to which the postal censors are pro-

*We omit the page numbers and the titles of the two articles which the Acting First Assistant Postmaster General gave in his letter. Our reason for th[illegible] that such publication here might subject this issue of THE PUBLIC to suppression by order of the postal censor bureau. The same Act of Congress by authority of which LUCIFER was censored for publishing those articles, provides also that "notice of any kind giving information directly or indirectly where or how or of whom or by what means an "obscene . . . publication of an indecent character" "may be obtained," is itself "non-mailable matter." Since the censors have already decided that the articles in question are obscene and indecent, they might decide that the naming of them by title and page in connection with the name of the publication in which they appeared, is a notice making the paper publishing it also guilty under the statute and therefore subject to suppression. Were they to so decide, they could suppress this issue of THE PUBLIC, and we should be without protection or redress or any power to get a judicial trial. Inasmuch, therefore, as that part of the Acting First Assistant Postmaster General's letter which we have excised in quoting it above, is not absolutely necessary for the information of our readers, we prefer to avoid an unnecessary risk of censorship, by omitting it.

fessedly devoted. In other words, it was suppressed, not for decency's sake, but for opinion's sake.

With the opinions intended to be censored by the suppression of *Lucifer*, we are entirely out of sympathy. Were they up for discussion under circumstances demanding our participation, we should emphatically condemn them—not because they are unconventional, but because we believe them to be unsound. But the question here is not whether they are unsound. It is whether their discussion shall be forbidden.

On that issue we yield to no one in demanding the fullest freedom of discussion for every debatable question. Nothing but error can suffer from honest debate. And while we recognize the propriety as to taste, and the decency as to morals, of limiting discussions of some subjects, not only conventionally but by law if necessary, to appropriate occasions, we do not regard the use of the mails for the distribution of any discussion whatever, for adult readers, and in good faith, as a violation of the proprieties of discussion. We do regard the denial of their use for such purposes as a menace to one of the most important safeguards of liberty, and an obstruction to the most important promoter of progress.

V.

Yet we hesitate to denounce the postal censor for suppressing a paper for its opinions. To denounce him for that might be quite unjust. He only suppressed disagreeable opinions, and that is what most men would do who have the power. It is what the censors of the Czar do, when they forbid publication of the proceedings of a national congress. It is what our own censors in the Philippines did, when they forbade the publication of the Declaration of Independence. It is what we ourselves might be tempted to do if we were at the head of the postal censor bureau—since the opinions as to marriage which *Lucifer* advocates are repugnant to our views. If we had the power as censor to read "offensive to the statute" into *Lucifer's* opinions, or into those of any other periodical whose opinions on social philosophy, religion, or politics we reject, we might give way to the temptation to which the postal censor appears to have succumbed in *Lucifer's* case.

But all this is one of the very reasons why powers of censorship, even for the best of purposes, and though reposed in persons of liberal disposition, are dangerous powers.

Power fattens upon what it feeds on. Little by little, from suppressing evil reading to suppressing that which is doubtful, it advances to the suppression of unpopular opinions, and then to those that are popular; and it makes its advances so insidiously that all freedom of opinion is throttled by censors before the people realize that it has been assailed.

That the point of suppressing unpopular opinions in one branch of

social philosophy has already been reached, is evident from the circumstances of the *Lucifer* case which we describe above.

Here is a publication depending for existence, as all others do, upon regularity of mail circulation. Without notice, accusation, specification, trial, or hearing of any sort, a regular issue, the full edition, is confiscated by a local postmaster upon orders from the censor at Washington. After this suppression, the publisher is notified of it, but information as to the specific fact upon which the arbitrary action was based is withheld. He is told he has violated a particular postal law, but he is not told how he has done it. Nor does he get a hearing even on the vague general charge of which he is advised. The action is as arbitrary as such actions are in Russia. In Russia, indeed, the censor is more considerate. He lampblacks objectionable articles and circulates the rest of the paper; but our censor suppresses the whole edition, the "good" along with the "bad." And after the edition has been suppressed, another paper, interested in sounding an alarm if freedom of the press has been bureaucratically assailed, is trifled with by the censors for months, in its efforts to discover the specific offense for which the suppressed paper was suppressed, only to learn finally that it was for publishing two articles, only the titles of which are given, and in which, however offensive they may be to good taste, even a prude could hardly find material for specifications on a charge of immorality.

A censorship which can maintain this attitude toward freedom of the press respecting one subject of discussion, will have little difficulty in speedily advancing its meddlesome jurisdiction to other subjects.

VI.

The real issue here, let us repeat—and it will bear repetition again and again—is not the legal offensiveness of the particular articles noted above. That issue is important only for its bearing upon the point of the good faith of the censor. The real issue is the wisdom of allowing any official to deny mailing facilities to anything whatever which is otherwise mailable, merely upon his own judgment, as a censor, of the morality of the intelligence it conveys or the opinions it expresses.

Granted that some publications ought to be excluded, the power of discrimination cannot safely be entrusted to an administrative official. A bureau of administration with authority to exclude matter from the mails with reference to the intelligence or the opinions it conveys, will inevitably grow into a bureau of dangerous censorship.

For offenses against the purity of the mails the only safe remedy is the one that is applied to purity in every other connection—to the legitimate method which has been sanctioned and approved by long usage in English-speaking countries; and this is to punish offenders after

they, having had an opportunity to be heard upon specific charges, have been convicted by a jury of their fellow-citizens.

If opinions in this country are to stand or fall upon reason and free discussion, the present postal censorship must be abolished. So long as publication through the mails can be denied arbitrarily by an administrative bureau of the government, the discussion of conflicting opinions is hampered.

Even the sentiment of fair play, entirely apart from all considerations of a free press, demands the abolition of this censorship. So long as an administrative officer can withdraw mailing rights from a publication for any offense whatever, without an opportunity for the publisher to be heard in his own defense before an impartial tribunal, fair play is impossible. Though we deny mailing rights to indecent publications, fair play demands that the person accused of the offense, and whose personal and property rights are involved in the accusation, shall have the opportunity he is guaranteed in all other cases to convince his fellow-citizens that his publication is not indecent. It is his right to be judicially heard in his own defense.

Instances like that of the suppression of *Lucifer* by postal censorship point so directly and unmistakably to great injustice and public danger that any fair-minded man may see it and every patriotic man ought to resent it. No matter what one's opinion of any paper and its teachings may be, there should be but one opinion of a postal organization which permits in any case what was done in that case, and this should be an opinion of unqualified condemnation.

The confiscation by postal clerks, of any publication, for any cause without specific charges, without opportunity to the publisher to be heard, without the verdict of a jury, without appeal, without any of the ordinary safeguards of personal rights and private property, and consequently without any assurance of guilt, is an omnious fact. No matter how objectionable or even dangerous a paper's teachings may seem to the censors, no matter how offensive its language in their estimation, so palpable an invasion of the commonest rights of citizenship is a direct menace to the independent press of the country. Any law that authorizes it should be swept from the statute-books.

The only difference between such a power and that of Russian censorship is a difference neither in kind nor degree. It is a difference only in scope of execution. And scope of execution widens with use.

The issue before us turns not upon the propriety of excluding indecent publications from the mails, but upon the wisdom and justice of allowing administrative officers to hamper freedom of the press and confiscate property rights, upon their own opinion of what constitutes indecency, and without an opportunity for the alleged offender to be heard in his defense. Under the postal censorship publications are

denied mailing rights, not because they are offensive to decency, but because the censor, from whom there is no appeal, chooses to think them so. Here is the seed of a mighty tree of absolutism.

[EDITORIAL NOTE—Mr. Post closes another long editorial, quoting his correspondence with the Postoffice Department, by using these words:]

A reduction of this correspondence also to questions and answers produces the following rather remarkable result:

Question. "Does the Department exclude the issue of the paper in question because it 'names and tells where to obtain any unmailable book or books?'"

Answer. "It is not practicable for the Department to attempt to point out all the offensive passages upon which the exclusion of the issue from the mails is based."

Question. "Is it because of the quotation from Bernard Shaw's "Man and Superman?"

Answer. "It is not practicable for the department to attempt to point out all the offensive passages upon which the exclusion of the issue from the mails is based."

Question. "If *The Public* were to reproduce the said catalogue of books, or the said quotation from Bernard Shaw's 'Man and Superman,' would the postmaster at Chicago be required to consider this decision as a precedent and accordingly to exclude that issue of *The Public* from the mails?"

Answer. "The Department cannot undertake 'to state what would or would not be unmailable in advance of the matter being actually presented for transmission in the mails.'"

Now, why was it impracticable for the Department to state whether or not the exclusion of *Lucifer* was because it printed the names and places for procuring certain books? The Department was not asked "to point out all offensive passages."

And why was it impracticable for the Department to state whether or not the paper in question was excluded because of its quotation from "Man and Superman?" To do this it was not necessary "to point out all offensive passages."

Finally, why could n't the Department undertake to inform us whether the postmaster at Chicago would be required to consider the decision in the *Lucifer* case as a precedent? What is the meaning of refusals by the Department to state in advance of mailing whether matter excluded from the mail when published by one periodical would be unmailable if published by another? This last question almost answers itself.

II.

We have now proved our assertions. But that there may be no reasonable question of our having done so, let us summarize the assertions and the proof in support of them.

First. We have proved by the foregoing correspondence that any periodical is subject to exclusion from the mails as a purveyor of obscenity, upon the mere arbitrary order of administrative post office officials.

Second. We have proved, also by the foregoing correspondence, that exclusion orders are made by the Post Office Department ostensibly in accordance with its own rulings as to what constitutes obscenity, and that these rulings, though treated as precedents by postmasters, are kept profoundly secret by the Department.

Third. We have proved by reference to a previous article on this general subject, which is too lengthy to be reproduced here, that the courts hold decisions of the Postmaster General in these matters to be absolutely beyond the power of the judiciary to override or restrain, even though he decide without evidence and in manifest bad faith.

Fourth. We have proved by the above correspondence, supplemented now by the best testimony possible, in view of the necessity the Department imposes upon us of proving the negative of an issue on which it holds the affirmative and possesses all the affirmative evidence, if there be any, that in practice the Department does exclude from the mails for obscenity periodicals which in fact are not obscene. The correspondence proves the first part of this contention, namely, that the Department excludes periodicals alleged to contain obscene articles. As to the second and essential part of the contention, namely, that the articles are in fact not obscene, the Department refuses to indicate the decisive facts, which are within its own control and in the nature of things cannot be known to outsiders. The several articles indicated above by the Chicago postmaster as cause for exclusion are clearly not obscene. The fact that the Department refuses to particularize should raise a reasonable presumption that there is nothing which it can particularize. And in support of this presumption we now positively testify, after reading the excluded papers through, that they in fact contain no word, phrase, or thought which can with any show of reason be characterized as obscene.

Fifth. It is not necessary to prove that these circumstances afford dangerous opportunities for corruption in the Post Office Department. When the law permits postal officials to exclude from the mails any periodical, arbitrarily in their own discretion, with no appeal to the courts, upon the bare pretense that they contain obscenity but without any requirement that the alleged obscenity be particularized with sufficient definiteness to permit of a judgment upon the good faith of the exclusion,

and when the Department passes upon the question not only arbirtrarily but in secret, the opportunities for secret corruption are so enormous that only the corruptible official in the place for corrupting possibilities is necessary to produce a *régime* of corruption.

We submit, then, that we have established all that in this article we set out to prove. Any periodical may be peremptorily excluded from the mails as a purveyor of obscenity though it contain nothing obscene, and this upon the mere order of administrative postal officials; exclusion orders are made in alleged accordance with secret precedents, the limitations of which are held from the publishers seeking to adapt their editorial rights to postal rulings; the courts declare themselves powerless to interfere, even though exclusions be made without evidence and in manifest bad faith; the Post Office Department does in fact in this arbitrary manner exclude from the mails as obscene, periodicals which in fact are not obscene. Therefore, as the law now stands, it affords a degree of opportunity for corrupt discrimination and oppression which it is unsafe to repose in any official and which ought to be guarded against by Congress.

III.

The remedy for this fungus growth upon the postal service, a service originally intended only for a national convenience but now turned into a national police system which operates through irresponsible "administrative process", and from a "star chamber" tribunal, lies with Congress.

Shall the right to mail service in the United States, now become a necessity of the common life, depend upon the caprice, the bigotry, or the corruptibility of one man at the head of a Washington department or his subordinate at the head of a bureau?

That question is distinctly raised.

The courts have answered, Yes. What has Congress to say?

ROBERT BUCHANAN: From "On Descending into Hell."

I HAVE never held (and I do not hold now) the opinion that drainage is a fit subject for Art, that men grow any better by the contemplation of what is bestial and unpleasant; indeed, I have always been Puritan enough to think pornography a nuisance. It is one thing, however, to dislike the obtrusion of things unsavoury and abominable, and quite another to regard any allusion to them as positively criminal A description even of pigsties, moreover, may sometimes be made tolerable by the cunning of a great artist, and M. Zola, though a dullard *au fond*, for the simple reason that he regards pigsties as the only foreground for his lurid moral landscapes, appears to be so much better

and nobler than myself, in so much as he loves Truth more and fears consequences less, that I have again and again taken off my hat to him in open day. His zeal may be mistaken, but it is self-evident; his information may be horrible, but it is certainly given in all good faith; and an honest man being the rarest of phenomena in all literature, this man has my sympathy,--though my instinct is to get as far away from him as possible. . . .

Little as I sympathize with his views of life, greatly as I loathe his pictures of human vice and depravity, I have learned much from him, and others may learn much; and had I been unable to read French, these translations would have been to me an intellectual help and boon. I like to have the Devil's case thoroughly stated, because I know it refutes itself. As an artist, Zola is unjustifiable; as a moralist, he is answerable; but as a free man, a man of letters, he can decline to accept the fiat of a criminal tribunal. . . . It seems to me that it would be as rational to consult the first area-haunting policeman on the ethical quality of literature, as to accept the evidence of a censor who is either a mischief-maker or an ignoramus. . . .

Does any sane man imagine that it is really corrupt books that destroy society, and that any suppression of literature will make society any better? No; these books, where they are corrupt, merely represent corruption already existing—are merely signs and symbols of social disease. The argument that they bring "blushes to the cheek of a young person" is irrelevant. They are not written for the young person; and if they are, the young person will get at them, now and forever, in spite of the policeman. Criticize them, attack them, point out their deformities and absurdities as much as you please and as much as I myself have done; but do not imagine that you will purify the air by suppressing literature, or that you can make people virtuous by penal clauses and Acts of Parliament. . . .

No; these things must be veiled, the argument on the other side must not be stated, the descent into Hell must never be alluded to, except by those who are supposed to keep the Keys. [So we are told.] Surely there is no truth which Science or Art can bring to light, which Infallibility should fear? Surely Satan should be permitted to argue out his case? "No," says the Vigilance Committee and the Lord Chamberlain, "No, a thousand times; since sewerage is a Mystery, and children and young persons might overhear the argument and be contaminated—that is to say, converted." A foolish fear! A feeble superstition! The argument will out somehow, in spite of all Inquisitions. Human nature will not suffer its own salvation or damnation to be discussed *en camera*. The matter must be fought in open day. . . .

There are zealots who would burn the works of Shakespeare, as there were zealots who cursed and anathematized the works of Burns. To a

certain order of intelligence, *all* literature is profane, dangerous, inexpedient. Large portions of the community believe any stage play whatsoever is an abomination; large portions warn us that the reading of any work of fiction or fairy tale is sinful and pernicious. . . .

Just as certainly as the light which leads astray may (as Burns protested) be "light from Heaven," so may the light which guides and saves be light from Hell. To drape one-half of the human figure is not to prove the whole structure to be celestial; to ignore the existence of Evil is not to ensure the triumph of Good. The literature of Hell is God's literature too. . . .

The fact that, ashamed of our nakedness, we have made ourselves an apron, does not justify us in covering all our flesh with old-fashioned steel armor. The knowledge we have secured, at the cost of our innocence, is not to be ignored; the freedom we have gained, at the price of our moral peace, is not to be abandoned. In other words, we cannot save ourselves *now* by ignorance, nor can we be saved by providential suppression. Every man who would be strong for the world's fight must visit Hell, and become acquainted with its literature; when he is certain to discover, if my own experience is any guide, that the angels there are real, though fallen. . . .

The point for which I have always contended is that both cynical pessimism and coarse realism are alike infinitely *absurd.* A thoroughly unclean book is almost invariably a thoroughly foolish one. Zola, for example, is, at his coarsest, merely a subject for laughter; the dirt sticks to him who writes, not to him who reads, and makes the writer look ridiculous. The sense of the absurd, in fact, is the *granum salis* which keeps literature wholesome. Even *Justine* becomes innocuous, even Petronius becomes harmless, when disinfected. Yet when I look at Rabelais in his easy chair, I need no grain of salt, for I am thinking only of the broad humanity of the man. Even Sterne's dirty snigger is forgotten in his quaint humanities. *Nihil humani a me alienum puto;* nothing in literary humanities injures me one hair. My eyes are yonder on Mount Pisgah, and though I yearn for the region of stainless snow, I know my way lies through this mud. . . .

For, as I have said, Hell *is,* and we must know it, and to know it is, in the end, to abominate and to avoid it. We are not celestial beings, yet. We are earthly and human enough to fancy that the diet of celestial beings is very often insipid. We want the records of human sin and pain. We crave for the elemental passions. We tire even of plum pudding, and thirst to eat husks with the swine. We miss the tasty leaven, in super-celestial food. And so, when we are sick of a surfeit of holiness, we turn to Farquhar for gay rascality, to Swift for brute-banality, to Byron for lightsome deviltry, to Goethe for intellectual concupiscence, to Heine for the persiflage which scorns all sanctities

and laughs at all the gods, and to Zola for gruesome testimony against sunlight and human nature. When this is done, after we have seen the Satyr romp and heard the hiccup of Silenus, after we have seen Rabelais charging the monks on his ass Panurge, and left Whitman loafing naked on the sea shore, do we turn again with less appetite, with less eager insight, towards the shining documents of Heaven? . . .

Of all the great writers who have been canonized by Humanity, there is scarcely one who, under the proposed Inquisition of Messrs. Shallow and Dogberry, would not have been "run in," pilloried, fined, or imprisoned. The author of Pericles would do his six months as a first-class misdemeanant, in company with the author of Œdipus and other foreigners of reputation. Sappho, for one little set of verses, would be tied to the cart's-tail, in company with Nanon and Mrs. Behn. In one long chain, the dramatists of the Elizabethan age would go to the moral galleys, followed by the dirtier dramatists of the Restoration. Fielding and Smollett would find no mercy, Richardson himself would escape only with a warning not to offend any more. To come down to contemporaries, I think Mr. Browning might be adjudged an offender against the law of modest reticence, and Mr. George Meredith a revolutionary in the region of sensuous passion. Not all his odes to infancy, not all his apotheosis of the coral and the lollipop, would save Mr. Swinburne. But the authors of the *Heir of Redcliffe* and *A Knight Errant* would rise up to the stainless shrines of literature, and Mr. Slippery Sweetsong might become the laureate of the new age of Moral Drapery and popular *Mauvaise Honte*. How good then would Humanity become, bereft of Shakespeare's feudal glory, denied even a glimpse of frisky blue stockings under the ballet skirts of Ouida! Morality would be saved, possibly. All would be innocence, a moral constabulary, and good society. We should have choked up with tracts and pretty poems and proper novelettes the mouth of a sleeping volcano; but when Ætna, or Sheol, or Hell, had its periodical eruption, what would happen then? . . .

The main contention of suppressionist philosophers is that if the majority can crush out vice by law, it is vicious not to do it, even if a little truth has to be sacrificed too. But how shall we decide what is vicious? Shall not the history of persecution warn us to be careful how we judge? And in so far as books are concerned, is not the record of every generation filled with the names of books labelled vicious by the contemporary majority, and afterwards pronounced soul-helping by the verdict of posterity? The suppressed books form in themselves a Bible of Humanity. If it were only for the sake of one or two little chapters, say the Epistle of Shelley to the Muggletonians or the Song of Songs (not of Solomon, but of Heine) I should regard the Bible of Humanity with devout affection. . . .

Personally, I claim the right of free deliverance, free speech, free thought, and what I claim for myself I claim for every human being. I claim the right to attack and to defend. I claim the right to justify the Devil, if I want to. I can be suppressed by wiser argument, by deeper insight, by greater knowledge, but not by the magistrate, civil or literary. I would stand even by Judas Iscariot in the dock, if his Judge denied him a free hearing, a fair trial. The Truth, if she is great as we assume her to be, must prevail. The evidence of the Devil is necessary to secure the triumph of God; if it were otherwise, the Devil, not his Judge, would be Omnipotent. . . .

In this country, I believe, only two classes are specially pornographic: those who never read at all, because they cannot or will not, and those who are sufficiently wealthy to buy and read *éditions de luxe*. Mr. Vizetelly's publications cannot affect the former classes, and their existence is a matter of indifference to the latter, who finger their Casanova at leisure, and pay readily for costly works like Burton's translation of the Arabian Nights. The point of the persecution, therefore, appears to be that Mr. Vizetelly's books are sufficiently attractive and cheap to reach those classes who are pornographic in neither their habits nor their tastes: young clerks, frisky milliners, *et hoc genus omne*. Now these people are precisely those who are robust and healthy-minded enough, familiar with the world enough, to discriminate for themselves. Whatever they choose to read will make them neither better nor worse. The milliner will frisk without the aid of a Zola, and the young clerk will follow the milliner, even within the protective shadow of a Young Men's Christian Association. Wholesale corruption never yet came from corrupt literature which is the effect, not the cause, of social libertinage. Do we find morality so plentiful amongst the godly farmers and drovers of Annandale, or among the "*unco' gude*" of Ayshire or Dumfrieshire—thumbers of the Bible, sheep of the Kirk? Stands Scotland anywhere but where it did, though it has not yet acquired an esthetic taste for the Abominable, but merely realizes occasionally the primitive instincts of *La Terre*? Dwells perfect purity in Brittany and in Normandy, despite the fact that Zola there is an unknown quantity, and Paris itself a thing of dream? Bestialism, animalism, sensualism, realism, call it by what name you will, is antecedent to and triumphant over all books whatsoever. Books may reflect it, that is all; and I fail to see why they should not, since it exists. I like my Burns and like my Byron, though neither was a virtuous or even a "decent" person. My Juvenal, my Lucretius, my Catullus, and even my *porous porcorum Petronius*, are well read. My Decameron, with all its incidence of amativeness, is a breeding nest of poets. Age cannot wither, nor custom stale, La Fontaine's infinite variety. But I take such books as these, as I take all such mental food *cum*

grano salis, a pinch of which keeps each from corruption. Even the fly-blown Gautier looks well, cold and inedible, on a sideboard, garnished with Style's fresh parsley. But I have never found that what my teeth nibble at has any power to pollute my immortal part. I must stand on the earth with Montaigne and Rabelais, but does that prevent me from flying heavenward with Jean Paul, or walking the mountain-tops with the Shepherd of Rydal? Inspection of the dung-heaps and slaughter-houses with Johnathan Swift and Zola only makes me more anxious to get away with Rousseau, to the peaceful height where the Savoyard Vicar prays. By Evil only, shall ye distinguish Good, says the Master; Yea, and by the husks shall ye know the grain.

The man who says that a Book has power to pollute his Soul ranks his Soul below a Book. I rank mine infinitely higher.

B. O. FLOWER: From Editorials in "The Arena," November, 1906.

The National Purity Federation at its recent meeting in Chicago evinced a degree of wisdom in relation to the great question of sex morality that has seldom if ever before been manifested in similar congresses, in the broad and fundamental manner in which it considered the question. Herefotore usually the tendency has been to look on the question of morality in a superficial and narrow way, but in the recent convention the members welcomed broad, judicial and fundamental consideration of the problem, which indicates that the old ostrich-like policy, which sought to stifle anything like healthy and fearless consideration of grave questions absolutely essential to sound morality, is to give place to a mental attitude in line with the modern enlightened and scientific spirit of our time.

Perhaps the most notable paper delivered at the meeting was read by Mr. Theodore Schroeder, one of the associate editors of *The Arena*.

At our request a correspondent in attendance has furnished us an excellent news-note dealing with the significance of this important gathering, from which we quote the following:

"An astonishing thing happened in Chicago at the recent meeting of the National Purity Federation. Mr. Theodore Schroeder, the attorney of the Free-Speech League of New York, was allowed to address that Conference on the need for more liberty of the press in the discussion of sex problems as a condition of moral progress.

"Mr. Anthony Comstock, who is always conspicuous on such occasions, was announced to reply but failed to appear. The still more remarkable thing was that this organization, which in the popular mind stands for organized and legalized prudery, did unanimously adopt a resolution almost as broad as Mr. Schroeder's contention.

"In his argument he reminded us that: 'Only upon the subject of sex do we by statute declare that artificial fear is a safer guide than intelligent self-reliance, that purity can thrive only in concealment and ignorance, and that to know all of one's self is dangerous and immoral.' He made an unanswerable argument for the right of every individual to know for himself what is nature's moral law of sex, and to have access to all the evidence which anyone might be willing to submit, if permitted.

"Then he went on to show how under our laws against 'obscene' literature that right to know has been destroyed. We thought that the liberty of the press guaranteed by our Constitution meant the right to tell the truth from good motives, but all that has disappeared by the unauthorized judicial amendment of our charter of liberties. Upon the subject of sex, truth and good motive for a publication are no longer a defense when the publisher is arrested as a disseminator of obscenity.

"Under the scientific absurdities which courts pronounce as the 'tests of obscenity,' nothing can escape judicial condemnation. In a scientific paper before the last International Medical Congress, Mr. Schroeder showed that if the judicial tests of obscenity were applied to 'Uncle Tom's Cabin' it must be adjudged a criminally 'lewd book.'

"Before the Purity Federation he showed that once by necessary implication and twice by expressed judgment have the courts declared our Bible to be criminally obscene, and furthermore, that courts and juries of irreligious men, relying wholly upon precedents already established, might destroy every Bible in the land, as well as most of our classical literature. The test of obscenity prescribed by our courts was applied to the ten commandments, and it was shown that an impartial enforcement of the law would suppress them as criminally obscene.

"This extraordinary statute makes no exception for scientific medical books, even when circulated among professional men. By dictum only, have the courts so amended the law that these books thus circulated are tolerated in spite of the statute, and not as a matter of right under it. An exact enforcement of the letter of our statutes under the present judicial tests of obscenity would extirpate all the medical literature upon the subject of sex.

"Many suppressed books were described. They came from physicians of the highest standing in their profession, and from the most conventional and conservative moralists. Nearly all of the criminal books mentioned in Mr. Schroeder's argument had the endorsement of some clergymen or religious leaders. Of course many controversial books advocating unconventional ideas have also been suppressed.

"On the day following this paper, the Purity Federation unanimously adopted a resolution which, to the outsider at least, would seem

to mark a new epoch among purity workers. The following is a salient paragraph:

"'*Resolved*, that the President be empowered to appoint a permanent committee of seven, of whom he shall be one, who shall seek to secure such changes in the judicial tests of obscenity as will make the law so certain that by reading it anyone may know what constitutes its violation and to secure such an interpretation of the law as will make impossible the suppression of any scientific and educational purity literature.'

"Another evidence of very great progress was the general sentiment of these Purity delegates in favor of sexual instruction in our schools.

"The New York *Sun*, on October 13th, closed an editorial upon these incidents of the Purity conference with these pointed words:

"The truth is that a new school of Purity has sprung up in the world, and for the present Mr. Comstock must be content to pass as an old fogy, out of date, mid-Victorian, unfashionable, or whatever the stronger party chooses. The new school is for discovering corruption; his school was ever for concealing it. He conceived credulity to be a more peaceful state of mind than curiosity and was always for hiding anything that might possibly offend even our dramatic critics. His opponents might be generous enough to credit him with a laudable ambition —the honest desire to raise every one to what we have been told is the very height of felicity, 'the possession of being well deceived, the serene and peaceful state of being a fool among knaves.'"—N.Y. *Sun*, Oct. 13, 1907.

An event perhaps even quite as significant as that which marked the National Purity Federation's meeting, was the recalling of the invitation extended to Anthony Comstock by the Pennsylvania Mothers' Congress. The press dispatches published in the Boston dailies of October 20th stated that "the invitation extended to Anthony Comstock, the purity mentor of New York, to address the Pennsylvania Congress of Mothers, at Johnstown, on November first has been recalled." One of the prominent members is quoted as saying: "I myself have pictures and statuary in my home which are perfectly beautiful and which I know Mr. Comstock would destroy it he could."

It would seem from the above that the more thoughtful and healthily moral members of the Mothers' Association have no sympathy with prurient imaginations that see impurity and evil in things that to a healthy or normal mind suggest not only naught that is low or debasing, but that which is beautiful, pure and fine. We well remember when at school, one of the boys in our room seemed unable to see anything that did not suggest something low, vile or sensual. His mind seemed to so brood over vile and low things that his imagination apparently became so saturated with sensual concepts that all things took on an

evil cast, just as one looking through green glass beholds the green sheen on every object seen. On one occasion, when this lad had obtruded one of his coarse and suggestive remarks while some of us were enjoying an historical painting that to all save the youth in question was free from any suggestion of sensualism, a schoolmate exclaimed, "I think the fragrance of a rose would suggest something low to Will.'

Now it may not be the case that Anthony Comstock has searched so long for that which is sensual, low or corrupt that his mind has reached the stage of the person who looks at the world through green glass. It may be possible that he is not in the position where it is impossible for him to look at anything without seeing something degrading and immoral in it; but many of his acts of late years suggest the possibility of this state, or else that he is of that order of mind that so fears the power of evil over good that he believes that ignorance is the only helmet for virtue; that innocence born of ignorance is a better safeguard for our young men and women from the multitudinous pitfalls of civilized life than knowledge imparted by high-minded men and women with a view to making the young morally strong and healthy through knowledge coupled with appeals to the reason to think fundamentally, sanely and normally.

There was a time in the far-away past when minds of this order, that seemed to endow evil, and especially sensualism, with infinite potency, so distrusted the power of righteousness and virtue over their own minds that they fled to the deserts and to retreats, that their eyes might not even be tempted by the sight of women. Now for such persons it may be that the retreat or the desert is the healthiest place; but certainly men who so exalt the potency of evil, and especially of sensualism, that they see grossness and vileness in the breathing statues that represent some of the noblest creations of genius of the ages, should not be encouraged to pose as censors of morals, as they would inevitably teach the immature and unformed imagination of youth to look for things evil and degrading or sensual in nature and art, instead of seeing beauty, nobility and purity which the sane, healthy, artistic and informed mind sees in the master-creations of the ages.

To us it seems that a mind so keen to scent out corruption and immorality where minds like that of Ralph Waldo Emerson would see only beauty, and so indiscriminate in its attacks on the good as well as the evil as is Mr. Comstock, is liable to work a vast amount of evil to the young and to the public imagination as a whole, by centering the attention of the people on evil rather than good, making them look for that which is low, vile and debasing when otherwise they would see none of these things.

A recent issue of *Life* contained an admirable cartoon which hits off what many people believe to be Mr. Comstock's mental attitude. This

cartoon represents Mr. Comstock as an angel flying to the gates of Heaven, but St. Peter sternly forbids his entrance, saying, "No, Anthony, no; we may have things here you would object to."

THEODORE SCHROEDER: Statement of the Contention Against "Obscenity" Law, in Blue Grass Blade; "Obscenity and Witchcraft," etc.

The postal laws against obscene literature are unconstitutional for the following reasons:

1—Congress having expressed power to establish post-offices and post-roads, it also has the implied power to pass all laws "necessary and proper" for the execution of the power to establish post-offices and post-roads.

It is admitted that Congress has the implied power to determine the gross physical characteristics of that which shall be carried or excluded. It too has been decided that Congress also has the power to preclude the use of the mails as an essential element in the commission of a crime otherwise committable and over which Congress has jurisdiction (such as a fraud and gambling) within the geographical limits of its power.

But it is now claimed that the power of Congress is limited to the use of means which are a direct mode of executing the power to establish post-offices and post-roads or other expressed enumerated powers, and it cannot, under the pretense of regulating the mails, accomplish objects which the Constitution does not commit to the care of Congress. Such an unconstitutional object is the effort of Congress, under the pretext of regulating the mails, to control the psycho-sexual condition of the postal patrons. A differential test of mail matter, based upon the opinions transmitted through the mails, of the psychologic tendencies of such opinions upon the addressee of the mail, or a differential test based upon an idea which is not actually transmitted, but is suggested by one that is transmitted, bears no conceivable relation to the establishment of post-offices for post roads for the transmission of physical logic test cannot become material until Congress has authority for, and does establish, a system for telepathic communication. At present, Congress can have no implied power to make such regulations.

II.—Our Constitution precludes the punishment of mere psychological crimes. The creation of offenses which are based only upon ideas such as were once punished, as constructive treason, witchcraft, and heresy, either religious or ethical, and all kindred psychologic or constructive

crimes, are prohibited. "The doctrine is fundamental in English and American law, that there can be no constructive offenses." All punishable crime must be based upon demonstrable and ascertained or imminent material injury to some actual being. The present postal law against "obscene" literature does not predicate crime upon any actual or ascertainable injury, but solely upon a speculative guess as of that which is sent through the mails. Congress has no power to predicate crime upon such factors.

III.—The postal law against obscene literature is void under the constitutional prohibition against abridgment of freedom of speech and press in this, that it is the artificial legislative destruction of equality, or creation of inequalities, of opportunity for the dissemination of ideas of conflicting tendency. Freedom of the press is abridged by the state, whenever under its laws, there is not an equality of freedom in the production and distribution of ideas, by means of the printed page.

IV.—The statute furnishes no standard or test by which to differentiate what book is obscene from that which is not, because of which fact, the definition of the crime is uncertain. Furthermore, it is a demonstrable fact of science that obscenity and indecency are not sense-perceived qualities of a book, but are solely and exclusively a condition or effect in the reading mind. This is evidenced in the result that it has been and always will be impossible to state a definition or test of obscenity in terms of the qualities of a book, or such a one that, solely by applying the test to any given book, accuracy and uniformity of result must follow, no matter who applies the test; nor such that any man may know in advance of a trial and verdict, solely from reading the statute, what the verdict must be as to the obscenity, and consequent criminality of every given book. Neither the statute nor the judicial tests of obscenity or indecency furnish any certain advance information as to what must be the verdict of a jury upon the speculative problem of the psychologic effect of a given book, upon a hypothetical reader. Their verdict is, therefore, not according to the letter of any general law, but according to their whim, caprice and prejudices, or varying personal experiences and different degrees of sexual-hyperestheticism and varying kind and quality of intelligence upon the subject of sexual psychology. In consequence, every such verdict is according to a test of obscenity personal to the court or jury in each case and binding upon no other court or jury and not according to any general law or uniform rule. One of the reasons underlying this uncertainty, is the fact that obscenity is not a quality inherent in a book or picture, but solely and exclusively a contribution of the reading mind, and hence cannot be defined in terms of the qualities of a book or picture.

V.—The first result of this uncertainty is that the statute of Congress herein involved, creates no certain or general rule of conduct for the

guidance of citizens, and does not enable them to know in advance if their proposed act is in violation of law, and therefore every indictment under said statute is "without due process of law" and unconstitutional.

VI.—The second result of this uncertainty of the statute is that every indictment under said statute is always according to an *ex post facto* law or standard of judgment specially created by the court or jury for each particular case. The Congress of the United States has no power to determine guilt of crime according to varying personal standards (like the opinion of a jury on the psychologic tendency of a book upon a hypothetical reader), and which, in the nature of things, cannot be known at the time the alleged act was committed, nor before the rendition of a verdict thereon, because that is *ex post facto* legislation. Every conviction secured under such a criterion, whether thus enacted by Congress or through delegated power by the court or jury, is unconstitutional, because under an *ex post facto* law.

VII.—A third phase of the contention may be thus stated: The statute is void for uncertainty and the total absence therein of any complete definition of the crime to be punished or the standard by which the existence of "obscenity," or the dividing line between it and its opposite is to be determined. This nullification results from an application of an ancient maxim: "Where the law is uncertain, there is no law."

VIII.—The statute is void, because by it Congress has, in effect, delegated to the court or jury or both, as the case may be, not merely whether or not the defendant has committed the acts prohibited by the letter of the statute and as charged in the indictment, but also its legislative power to declare by standards of judgment not made certain by the statute or natural science, whether or not such disputed acts shall or shall not constitute a crime under the laws of the land, and Congress has not the power to delegate to courts or juries its legislative discretion to determine what shall be criminal.

Has it ever occurred to you that the witchcraft superstition was almost identical, in its essence, with the present superstitious belief in the reality of the "obscene," as a thing outside the mind? Think it over.

Fanatical men and pious judges, otherwise intelligent, have affirmed the reality of both, and, on the assumption of their inerrancy in this, have assumed to punish their fellow-men. It is computed from historical records that 9,000,000 persons were put to death for witchcraft after 1484. The opponents of witch-belief were denounced just as the disbelievers in the "obscene" are now denounced. Yet witches ceased to be, when men no longer believed in them. Think it over and see if the "obscene" will not also disappear when men cease to believe in it.

In 1661, the learned Sir Mathew Hale, "a person than whom no one

was more backward to condemn a witch without full evidence," used this language: "That there are such angels [as witches] it is without question." Then he made a convincing argument from Holy Writ, and added: "It is also confirmed to us by daily experience of the power and energy of these evil spirits in witches and by them." (See Annals of Witchcraft, by Drake, preface, page xi.)

A century later, the learned Sir William Blackstone, since then the mentor of every English and American lawyer joined with the witch-burners in bearing testimony to the existence of these spook-humans, just as our own courts to-day join with the obscenity-burners to affirm that obscenity is in a book and not in the reading minds, and that, therefore, the publisher and not the reader, shall go to jail for being "obscene."

Blackstone said: "To deny the possibility, nay, actual existence, of witch-craft and sorcery is at once flatly to contradict the revealed word of God in various passages of both the Old and New Testament, and the thing itself is a truth to which every nation in the world hath in its turn borne testimony, either by example, seemingly well tested, or by prohibitory laws which at least suppose the possibility of commerce with evil spirits." (Blackstone's Commentaries, page 59. Edition of 1850.)

And yet when men ceased to believe in witches, they ceased to be, and so when men shall cease to believe in the "obscene" they will also cease to find that. Obscenity and witches exist only in the minds and emotions of those who believe in them, and, neither dogmatic judicial dictum nor righteous vituperation can ever give to either of them any objective existence.

In the "good old days," when a few, wiser than the rest, doubted the reality of witches, if not themselves killed as being bewitched, they were cowed into silence by an avalanche of vituperation such as "infidel," "atheist," or "emissary of Satan," "the enemy of God," "the anti-Christ," and some witch-finder would get on his trail to discover evidence of this heretic's compact with the devil.

How this is duplicated in the attitude of the nasty-minded portion of the public toward those who disbelieve in the objectivity of "obscenity"! Whether obscenity is a sense-perceived quality of a book, or resides exclusively in the reading mind, is a question of science, and, as such, a legitimate matter of debate. Try to prove its non-existence by the scientific method, and the literary scavengers, instead of answering your arguments, by showing the fallacy of its logic or error of fact, show their want of culture, just as did the witch-burners. They tell you that you are "either an ignoramus or so ethereal that there is no suitable place on earth for you," except in jail. They further hurl at you such illuminating epithetic arguments as "immoral," "smut-dealer," "moral cancer-planter," etc., etc. It is a regrettable fact that the miscalled "moral" majority is still too ignorant to know that such question-

begging epithets, when unsupported, are not argument, and its members are too obsessed with sensual images to be open to any proof against their resultant "obscene" superstition.

Think it over and see if when you cease to believe in the existence of "obscenity," you must not also cease to find it. If that be true, then it exists only in the minds and the emotions of those who believe in the superstition. Connect your mind with a sewer, and empty therein all the ideational and emotional associations which the miscalled "pure" people have forced into your thoughts. Having done this, you may be prepared to believe that "unto the pure, all things are pure, but unto them that are defiled and unbelieving, is nothing pure, but even their mind and conscience is defiled." (Titus, 1-15). Not till thus cleansed can you join in these words: "I know and am persuaded by the Lord Jesus that there is nothing unclean of itself, but to him that esteemeth anything to be unclean, to him it is unclean." (Romans 14, 14.)

When you have cleansed your own mind of the "obscene" superstition, proclaim a real purity on the highways and byways, until other minds are likewise cleansed, and then our obscenity laws will soon die a natural death, and healthy-mindedness will have a chance to control the normal functioning of a healthy body.

Once let the public become sufficiently clean-minded to allow every adult access to all that is to be known about the physiology, psychology, hygiene and ethics of sex, and in two generations we will have a new humanity, with more health and joy, fewer wrecked nerves and almost no divorces. All morbid curiosity will then be dispelled, and thus the dealer in bawdy art and literature will be bankrupted. Our sanitariums, and hospitals and insane asylums in that day will be uninhabited by those hundreds of thousands of inmates who are now there because of compulsory ignorance of their own sex nature. All these present evils are the outgrowth of that enforced sexual ignorance resulting from our legalized prudery, brought about by our general acquiescence in the "obscene" superstition, forced upon us by the vehement insistence of our over-sexed, prurient prudes. Let all clean-minded persons unite to abolish this twin to the witchcraft superstition and secure the annullment of all present laws against "obscene" literature. Thus you can best further the interest of humanity by promoting a sane and scientific physical and moral culture.

Upon the Federal and all State statute books we have penal laws against "obscene and indecent" literature. No criteria of obscenity or indecency are furnished, such as should inform the citizen as to what is prohibited. So it comes to pass that anything is "obscene" which a jury, prosecuting attorney, court or postal official may see fit to call by that name. Although the defendant is honestly of a different opinion, this

only entitles him to righteous judicial abuse, in addition to a fine or jail sentence. By reason of this uncertainty in the statute (which in my opinion renders it unconstitutional*) it has come to pass that the determination of what is prohibited is fixed, not by the rules of the law-enacting power, but by the whim, caprice, or malice of the most active and aggressive of our moralists. In other words, it has come to pass, with your acquiescence, that a jury of farmers or a department clerk decides what even a physician may or may not read upon the subject of sex. You didn't know that, and doubt it? Quite likely! But the real question is what are you going to do about it when convinced?

EDWIN C. WALKER: From "The Revival of Puritanism."

For many years now the mails of the United States have been under a censorship established by law in the name of morality. Under that law E. H. Heywood, D. M. Bennett, Moses Harman and other reformers have been imprisoned and Dr. Foote and many more have been fined. The man who fills the office of chief censor has boasted that he has hounded to death more than a score of men, and we all know something of the law and the suffering it has caused as administered by Comstock, McAfee, Chase, and the rest. At present there is pending in Congress a bill intended to make the law as it exists much more oppressive and there is also another bill, drafted for the purpose of extending the same censorship to the matter carried by the express companies.† Agents of the post office department, United States judges and juries, and postmasters have the effrontery to tell the citizen what he may and may not send through the mails. He must not send money to a lottery company, he must not have sent to him lottery advertisements, he must not receive by mail books treating on sexual topics if some official ignoramus thinks that they are not up to his standard—or down to it, as the case may be; he must not receive artistic representations of the human body if the censor thinks that it is "obscene"—men have been punished for mailing reproductions of Power's Greek Slave! While in England—"effete" England—and her Australian colonies, the citizen may advertise to send by mail and receive through that channel information and materials pertaining to the preventive limitation of population, the citizen of "free" America is guilty of a felony if he does either. Our law-makers appear to prefer abortion to prevention; perhaps because they see that it will give the judges and jailers more to do and therefore more pay—and blackmail.

*See: "Due Process of Law in relation to Statutory Uncertainty and Constructive Offenses," published by the Free Speech League, 120 Lexington Avenue, New York City; also, "Constructive Crimes Defined," in Central Law Journal, Dec 18, 1908.

†Both amendments have been adopted since the foregoing was written. The first adds the word "filthy" to the law, and the second applies the law to all inter-state express business.

For some years the Canadian customs' authorities have shown a strong disposition to meddle with the circulation of Freethought books and papers. Paine's "Age of Reason," Ingersoll's works, and the "Old Testament *Stories*" of the Truth Seeker Company have in turn been attacked, and sometimes torn up or burned. In August, 1895, the Postmaster-General of Canada forbade the circulation of the *Truth Seeker* through the mails of that country. (For particulars, see the *Truth Seeker* of September 28, 1895.) The alleged offense was "scurrility." If the Henderson-Hayes bill, several times offered in Congress, should become a law it would be within the power of the Postmaster-General in the United States to shut out of the mails *without a hearing of any kind The Truth Seeker*, *Investigator*, *Our New Humanity*, *Lucifer*, or even such an influential journal as the New York *World* or such a magazine as the *Century*.* It would make him absolute censor of the periodical reading matter of the people of the United States, just as the Postmaster-General of Canada is the absolute censor of the periodical reading matter of the people of that Dominion. Who will dare affirm that there is not a "Revival of Puritanism" or that the union of church and state is not each day becoming more close?

Puritanism is also manifested in the supervision to which news-stands, bulletin boards, theaters, and the like are being subjected more and more each year. In Philadelphia, the Quaker God-in-the-Constitution champion, Josiah Leeds, has been so active that many of the news-stands will not handle certain publications and sometimes convictions have been secured against those who would not obey orders, and against bill posters. In Chicago, Mayor Hopkins destroyed fences and bulletin boards which were covered with posters which he did not like, or that some of the official and semi-official busybodies whom he was anxious to please, did not like. As these fences and boards were on private property and as he had no legal authority to destroy them, he had recourse to the brilliant expedient of stealing out at night to accomplish his purpose. You are all familiar with the attempts made in New York City to Puritanize the art stores, the bulletin boards, the theaters. You know how Comstock has entered club rooms and art stores and taken and destroyed a large amount of valuable property, and you also know that he has never been punished for any act of his, no matter how grossly outrageous it was or how much suffering it has caused. You know of the supervision exercised over theatrical performances by the police at the instigation of various semi-official societies; of the crusade there and in London against "Living Pictures" and concert halls; you are acquainted with the refusal of the London County Council to renew the license of the Empire Music Hall, owing to the outcry raised by Mrs. Ormiston Chant, Lady Isabel Somerset, and their followers, and you

*Since realized, WITHOUT A STATUTE, in the case of LUCIFER, EUGENICS, and other publications.

know also that that famous "reformer," the labor leader, John Burns, who is a member of the London County Council, voted with the majority to shut up the Music Hall and thus send its inmates out upon the streets. There is also a society, with headquarters in Chicago, and of which some very prominent members of both the Protestant and Catholic wings of the Church are active promoters, the object of which is to drive off the news-stands everything that is distasteful to the society. One of these men has recently been decorated by the Pope for his zeal in behalf of religious morals. It should be said in passing that the influence of the Puritanic element is already so strong that it is practically impossible to get any distinctively Freethought work into the channels of trade through the agency of the American News Company. The silly rejection by Secretary Carlisle and the Senatorial committee of the design of Mr. St. Gaudens for the World's Fair medal has not been forgotten, nor the refusal of Colonel Wilson and Mrs. Cleveland to accept for the White House the painting, "Love and Life," presented to the government by the English artist Watts. The draping of nude statuary in several towns during the past few years will likewise be recalled. A delegation of preachers called on the stockholders of the Texas State Fair and Dallas Exposition Association to close the gates on Sunday, stop all gambling, remove the pictures of the nude and cover the statuary. But I must not devote more space to this division of the subject; multitudinous evidences of the revival of the Puritanic desire to run the world in its own narrow grooves are patent to all observant readers of the press. However, I must not omit mention of the ordinances adopted in a number of cities and towns and the orders issued by business houses and the managers of bathing establishments against the reform costume of women bicycle riders and bathers.

JOHN RUSSELL CORYELL: From "Comstockery."

In those early days a confectioner on Fulton street sought to attract customers by exhibiting in his window a painting by a great artist. If memory serves, it was "The Triumph of Charles V." by Hans Makart. Figures of nude females were in the picture, and Comstockery, established in its censorship of art and solemnly unconscious of its appalling ignorance, but true to its fundamental pruriency, ordered the picture removed from the window. And it was removed. Just as Boston, finding its bronze bacchante immodest, rejected the brazen hussy. And now she stands on her pedestal in the Metropolitan Musuem in New York, giving joy to the beholder, and—not ordered down by Comstockery. Why? And why is not the whole museum purged of its nude figures? It is

a puzzle not even to be solved by the theory of change in public sentiment; for it is only a few months ago that the art censor-in-chief of Comstockery saw in the window of an art dealer on Fifth avenue a landscape in which figured several nude children discreetly wandering away from the beholder. The picture was ordered out of the window forthwith. And went. . . .We are beginning to understand that right living is a purely physical matter, and that morals are only laws of health; and if there are yet but few who dare take so radical a view of morals as that, still there are quite as few who will not admit freely that nothing can be immoral which is beneficial to the human body. . . . We might easily have been taught that digestion was a moral matter, not to be talked of, not to be studied; ignorance of which was a virtue, knowledge of which a crime. And then, under those conditions, if a person, possessed of a little knowledge such as might have crept stealthily down the ages, were in a fine humanitarian spirit to dare to punish some of the things he knew in order to help dyspeptic humanity, he would have been robbed of his worldly goods and clapped forthwith into jail. Fancy that under such circumstances a man who had lived his three score and ten years and had learned something from his own suffering and experience, something from the secretly imparted imformation of others, might not say a word to help his fellows. Is it not too absurd to contemplate without both tears and laughter that that man who should plead with his fellow men to obstain from habitually living on butter-cakes and coffee, should be charged with obscenity and imprisoned in consequence? And imagine some sapient post office official solemnly declaring that any discussion of digestion is obscene! Consider how the land would be flooded with literature describing the pleasures of gluttony and depicting impossible gastronomic feats! Consider, too, trying to cure indigestion and to suppress the orgies of our children in pies, crullers, fritters, and butter cakes by the naïve device of forbidding all knowledge of the digestive function and making the utterance of the name of a digestive organ an obscenity punishable by fine and imprisonment!

Digestion is a matter to be considered in the light of hygiene. So is sex. Digestion is not in itself either moral or immoral. Neither is sex. But there is the most hideous immorality in the ascription of obscenity to sex, sex function, or any phase of sex life. And this is the crime of Comstockery. It has reared an awful idol to which have been secrificed the best of our youth; with hypocrisy the high-priest, ignorance the creed, and pruriency the detective.

Comstockery strikes at the very root of life. It forbids that we shall know how to live our best; it forbids that we shall know how to save our children from the perils we have so discreditably passed through; it raises barriers of false modesty between parents and children by branding the very science of life an obscenity. Owing to the shocking sug-

gestions of Comstockery, all that relates to life is degraded into the gutter; and that which would be pure and sweet and wholesome in the home or in the school, becomes filthy Comstockery on the snickering lips of ignorant playfellows.

The wonder is that we have endured the nasty thing for so long a time. We have been boys and girls and have gone from our parents to our school-mates and play-fellows for the information to which we are entitled by the very reason of living, but, more than all, because of our need to live right. We all know the hideous untruths we were told because of Comstockery; we all know how much we had to unlearn, and how great the suffering mentally, how great the deterioration physically in the unlearning; we all know our unfitness for parentage at the time we entered it; every man knows how the brothels kept open doors and beckoning inmates by the thousand for his undoing. And yet we endure it—Comstockery. . . .

It is such a subtly pervasive thing, this Comstockery; it steals in wherever it can and puts the taint of its own uncleanness on whatever it touches. Clothing becomes a matter of Comstockery. We do not always see it, but such is the fact. We do not wear clothing for convenience, but to cover our nakedness. You see nakedness is obscene. Not in itself, but only in man. You may take a naked dog on the street, but not a naked human being. The summer previous to the last one was a very hot one in New York, and a poor wretch of a boy of fourteen years of age, being on the top floor of a crowded tenement was half-crazed by the heat and the lack of fresh air, of which there was absolutely none in the closet in which he was trying to sleep. He ran down into the street nude at two o'clock in the morning in the hope of finding a surcease of his distress. A policeman saw him, remembered his blushing Comstockery in time, and haled the poor lad off to a cell. The next morning the magistrate in tones of grimmest virtue sent the boy to the reformatory, remarking with appropriate jest that the young scoundrel might have seven years in which to learn to keep his clothes on. . . .

Let us rid ourselves of the fatal, prurient restrictions on sex discussion and in a marvellously short time we shall have a store of sweet knowledge on the subject that will enable us to live well ourselves and fit us to bring into the world such children as will amaze us with their health of body and purity of mind.. No alteration of the facts of life is necessary, but only a change of attitude. Why, when Trilby brought the bare foot into prominence, it was gravely debated whether or not such an indecency should be permitted. It was assumed that a naked foot was indecent. Why a foot more than a hand? Why any one part of the body more than another? Comstockery! Comstockery!

THE NEW YORK HOME JOURNAL: From Editorials.

Among the settled principles of every Anglo-Saxon community none certainly is more tenaciously held to than the freedom of the press, none is felt to be more radically grounded in its political life—this is an assertion which has long since become a truism. But not the least, say rather the greatest, of the benefits arising from the freedom of the press is the sense of personal responsibility for the welfare of the community which it brings home to its members—a sentiment which can have but a comparatively feeble hold in a community where everything is regulated from above, and where, consequently, under a surface of excellent seeming, the holiest springs of life may be sapped.

It is to this very freedom of the press, and the sense of individual responsibility which it fosters, that is due the sensitiveness of the American public to that abuse by which a free press in the hands of base-minded persons may be made an agency for the defilement of the public morals. It is felt that some restriction must be imposed. Yet on what principle this restriction may be grounded, so as not to contravene the cherished law of freedom—on this point there seems to be a lamentable lack of precision of thought. And in view of the present state of the laws, and the recent, in the opinion of many good citizens, unwarranted procedures under them, it is a point which demands discussion and a more satisfactory settlement.

That the freedom of the press opens a wide gateway for the emission of erroneous opinion—opinions which directly or indirectly may lead to immorality of life; this is necessarily implied. Of course, under the sovereignty of a free press, no restriction may be imposed upon the publication of opinions on the plea that they manifestly tend to vitiation of morals. Freedom of the press means an open battle-ground for truth and error, under the conviction that the former is mighty and will prevail. That the publication of slanderous aspersions upon private character shall be made punishable—this is easily reconcilable with the principle of freedom and needs no justification. But when we pass beyond these primary distinctions into the direct relations of a free press to morals and decency, we enter a domain where, in the enthusiasm of virtue, we may easily transgress the principle of freedom, and by ill-considered restrictions entail in the end more harm than good.

Our national, if not our local, laws in this field have been hastily penned, and would seem to have been promoted by a desire to subserve a transient personal end rather than the public good. If strictly carried out in accordance with the interpretation that has been put upon them, they would cripple at once the excellent work of the Bible Society, and restrict our publishers to expurgated editions of Shakspere, Byron Chaucer, and the whole army of poets, ancient and modern, with scarce

an exception. Were the laws applied thus vigorously and impartially, the public would soon become convinced of the necessity of a new interpretation or a stricter definition of the original intent, and it would soon be emphatically made known that the public was not prepared to relegate to the courts the choice of its literary recreations, and that freedom of the press implied the exercise of individual judgment in matters of literary taste as well as in the discussion of opinions. Of course there is no ground for fear that our well-meaning but narrow-minded zealots will seek to effect so wide and impartial an application of the law. But that they could be restrained from doing so by the force of public opinion alone [only] is sufficient proof that the law, as it is now interpreted, is one which in their hands can be made the instrument of great injustice.

The application of the law as it stands turns upon the meaning which shall be put upon the word "decency." But decency is something not absolute but largely relative to time, place, circumstance, individual peculiarities of character, conditions of culture, and force of habit. A gown excessively *décolleté* may be worn without reproach at the Queen's levee; the same gown worn in the open street would bring the wearer to a personal acquaintance with the interior of a police court. A ballet girl, on the other hand, may by her early training accustom herself to appear upon the stage, without shame, in a costume which she would indignantly refuse to don except in her professional character. The inhabitant of a country village—educated he may be, liberal minded, too, in many directions, a college professor, perhaps—will yet turn away with an abashed, shame-faced look from the nude human beauty of a classic statue before which the city-bred maiden will stand in admiration without thought of ill. So, too, in literature, what may and should pass without reproach under that poetic expression which addresses the sense of beauty alone, may become indecent in plain prose or when divorced from the place for which it was designed; or, like the nude in art, it may affect the reader as decent or indecent according to the peculiarity of his culture. Again, in the sunny South, negroes and half-breeds go scantily clad without shock to the public sense of decency, while custom enforces the strictest observance in dress on the part of the whites. Instances, of course, might be multiplied almost indefinitely in all directions, showing that decency is largely determined by conditions of place, circumstance, mental temperament, and culture, etc.

Clearly, therefore, it may become a very nice matter, in many cases, to decide whether an accusation of literary or artistic indecency is well founded, a matter the decision of which ought, if possible, to be submitted to a college of experts. But to whom, in point of fact, is this delicate matter intrusted? To a jury of twelve men raked together at haphazard. An accusation before such a court as this—for it is the jury that in this instance constitute the court, it is they who interpret the law

—an accusation under these circumstances can hardly fail to lead to condemnation, however unjust, for the average juryman will consider his own reputation for decency as at stake; he will hesitate to acquit lest the public should get the idea that he himself was not over-nice or strict in his sense of decency; indeed, the more foul he may be in his own conversation and walk, the more likely is he, when thus publicly placed, to wrap himself in the toga of the rigid censor. But that an accidental association of twelve men, of whose fitness for the task the public knows nothing, whose positive unfitness for it may, indeed, be presumed, should be permitted to decide just where lies the nice border-line between decency and indecency, seems a strange anomaly under a government like ours. Certainly, either the law should be made more specific, so that matters of fact only should come under the cognizance of the jury, or a competent court of public censors should be organized. The present arrangement is an offense against the acknowledged principles of our political life, and readily lends itself as an instrument of injustice in the hands of bigots or of private revenge in the hands of the unscrupulous; it gives coveted opportunity to the opponents of free thought—a class by no means extinct—to seek, under the cloak of a zeal for the public morals, to suppress the honest discussion of social questions.

But we stand in need of some more clearly defined principle in this matter. How far may we go in our restrictive measures without contravening the freedom of the press? Not to aim here at niceties of distinction, we may say generally that the legislation in this field should limit itself in the intent of its application to the youth of the nation, to those who have not yet come into their rights as citizens. In the case of these certainly the principle of the "freedom of the press" does not apply. Every parent claims, and every judicious parent will exercise, the right to regulate the reading of his child. But the youth of the nation are also the wards of the state, and the state may, therefore, *in loco parentis*, exercise a similar right; nor in thus controlling the issues of the press, with a view to the protection of its wards from contaminating influences, will it necessarily infringe upon the law of liberty. Yet even within this scope legislation must of course be carefully defined and guarded lest it go beyond its intent. But as to governmental interference for the protection of the private morals of the citizens of the republic through restrictions upon the freedom of the press, this does not lie within the limits of institutions framed like ours, and is inconsistent with the vital principle of our policy. Those who are presumably competent to determine by their vote the direction of affairs, are presumably competent to choose for themselves between the right and the wrong in all that concerns their purely personal morality as well as in matters of opinion. For government to step in and say, You shall not read this, you shall not read that, lest it corrupt your morals, will seem too absurd to most American citizens

to be worthy of serious consideration. And yet this is what the government is at the present time made to do by well-meaning zealots, ignorant juries, and narrow-minded judges, through the instrumentality of ill-conceived, hastily-passed laws.

It is not a sufficient answer to say that a large portion of our citizens are not competent to regulate aright their private morals. True, and pity 'tis 'tis true. But interference, restriction, repression, except in what concerns the external relations of these unfortunate or misguided citizens, are not the best remedies, even if they were legitimately open to us without a governmental change of base. The spirit we have conjured will not down at our bidding. We have trusted to liberty, and must abide her direction. For ourselves, we have faith that in matters of morality, not less than in matters of opinion, the largest liberty of expression and conduct consistent with social order and personal rights will best conduce to the moral as well as the intellectual advancement of the people.

SECTION VI.

FREE SEX-DISCUSSION; BRIEFER DEFENSES

The best brought-up children are those who have seen their parents as they are. Hypocrisy is not the parent's first duty.—G. B. Shaw

When it comes to a race for dirt, prudery and pruirency are neck and neck.—John G. Woolley in *The New Voice.*

Personally, I feel that it is an extremely foolish law, and if I had been a legislator I never would have voted for it.—Judge John R. Brady, on Comstock postal law.

A policy that produces a verminous breed of spies and informers is more mischievous to society than the misdemeanors which it seeks to suppress.—Philadelphia *Record,* January 20, 1889.

Libel and treason are *crimes;* so is the circulation of obscene literature. But no theory is a crime. The state can deal only with overt acts; *there is no safety for liberty if it can deal with thoughts.—Index.*

Hypocrites and bigots have cunningly devised the crime of obscenity and caused it to be entered upon the statute books of the country, by which they are able to imprison, annoy, and disgrace independent thinkers.—D. M. Bennett.

The stone that covers a thousand wriggling reptiles is misnamed "Decency." Its true name is Shelter.

A knowledge of good and evil is necessary to a just judgment in all things.—Emma Wardlaw Best.

"Who told thee that thou wast naked?" That question is perhaps the oldest recorded rebuke of Comstockism. The implication that the human form is obscene is the beginning of the cultivation of nastiness of mind.—The Chicago *Tribune.*

It is impossible to define what is an immoral or obscene publication. To say that it necessarily tends to corrupt or deprave the morals of readers, supplies no definite test.—Patterson's Liberty of the Press Speech and Public Worship, p. 70. London, 1880.

The right of free speech is the priceless gem of the human soul. . . . I regard Comstock as infamous beyond expression. I have little respect for those men who endeavor to put down vice by lying, and very little respect for a society that would keep in its employ such a leprous agent.—Ingersoll.

The Truth is the best of friends to the true and the worst of enemies to the false; the most abominable of nuisances to those who shun her and the prince of delights to those who embrace her; the king of terrors to those who oppose her and the prince of peace to those who submit to her.—William H. Wilgus.

Nothing but a false sentimentality, ignorance of the most important functions of life, or radical misconceptions of their dignity and nobility, can explain the attitude of those who would keep these great mysteries [of sex] out of the field of intelligent study and instruction.—*Christian Union*, November 19, 1892.

It should not be necessary to point out the dangers to the freedom of the press and the liberties of the people which are involved in thus making one man prosecuting attorney, judge, and jury, with the power to deny the right of transmission to any publication which in his opinion is of a mistaken tendency.—Lillian Harman.

The world is full of perilous fallacies and sophisms respecting marriage and divorce, which, we are confident, are mischievous only because they burrow in darkness and are permitted to do their deadly work unopposed. Let them be exposed to the light of discussion, and they will, they must, be divested of their baneful power.—Horace Greeley.

The government has nothing to do with the moral or intellectual quality of the matter transmitted through the mails. It has no right to discriminate. If it may discriminate for good purposes it may discriminate for bad purposes. The power is fraught with too much danger of abuse to be safely intrusted to the government.—New York *Sun* editorial, December 23, 1878.

"The people perish for lack of knowledge," is an ancient declaration almost as applicable now as when it was first uttered, and it is largely owing to profound ignorance of the laws of our physical organization that a solitary vice has gained such a wide-spread ascendency that millions of the human race are suffering both bodily and mental degeneration therefrom.—Rev. C. H. Spurgeon.

Your note admonishes me of a duty that should have been discharged before—the duty of telling you that your argument on the United States "Comstock postal law" has made me an advocate of repeal *vs.* modification. The discussion of this autumn has brought me to the conclusion that this is the simple, logical, sensible, and only satisfactory method of dealing with this obnoxious piece of legislation.—Rev. O. B. Frothingham.

Our present brutal and cruel civilization can only be made to give way to a higher, better, and more refined one through the maintenance of the highest standard of health, both mental and physical, and by a universal knowledge among the people of the natural laws of sex. In this age, prudery, begotten of a lingering superstition, an heirloom of savagery, unfortunately militates against this very desirable state of affairs.—*Pacific Medical Journal*, January, 1905.

In the early anti-slavery times a determined effort was made to exclude from the mails in the slave-holding states every denunciation of the sum of all iniquities—human slavery. The people protested against

the espionage put upon the mails, against the interference [with] the freedom of the press. We condemn the attempt to interfere with the mails now, though it be with a very different intent, because it violates the same great essential principles of liberty.—New York *Sun*, December 23, 1878.

We insist upon a return to fundamental principles of Free-Speech, Free-Press, and Free-Mails and an adherence to constitutional guarantees which assure those rights to the citizen, and we demand that the laws shall be enforced only by the duly authorized officers of the people. In view of the mischievous possibilities of the Comstock laws, we demand their repeal as being a source of confusion in the administration of justice and a practical denial of constitutional rights.—General Assembly, Knights of Labor, Philadephia, January, 1894.

There can be no profound ethical culture if thinkers who grapple with great problems—those of sex and marriage especially—are liable to suppression by ignorant officials who confuse their own vulgarity with virtue. Once let it be admitted that the publication of any book or pamphlet is in good faith, meant for the public good, entirely free from corrupt motives, and it cannot be suppressed without violation of the fundamental principles of liberty. . . . They who menace our freedom of thought and of speech are tampering with something more powerful than gunpowder.—Moncure D. Conway.

In every community there are human elements which appear to be designed for the express purpose of making virtue odious. Anthony Comstock is such a force in New York. He follows with unfailing vigor the pursuit of imparting to the best the complexion of the worst. Comstock has disturbed again and again the patience and dignity of courts. A cause which might be well served by an agent with discretion, he has often brought into contempt. For vigilance he substitutes meddling; in place of guardianship he gives the activities of a busybody. The good things he does are forgotten in the light of his amazing blunders.—New York *World*.

Through an *ex cathedra* revelation from the Supreme Court, made at the close of the nineteenth century, and in a land which poses in the garb of "Liberty enlightening the world," the dogma of the infallible State has been set up as the counterpart of the dogma of the infallible Church. . . . This new-born heresy—created to meet a special emergency—will be utterly repudiated by the American people the moment that the despotic and irresponsible power over opinion, with which the fiat of the Supreme Court has armed Congress, is applied, as it surely

will be, to some subject which will arouse and quicken the public conscience.—Hannis Taylor in *North American Review.*

These vigilants and purifiers, with that hypocritical severity which ever makes the worst sinner in private the most vigorous judge in public, lately had the imprudent impudence to summons a publisher who had reprinted the "Decameron" with the objectionable passages in French. Mr. Alderman Faudell Phillips had the good sense contemptuously to dismiss the summons. Englishmen are no longer what they were if they continue to tolerate this ignoble espionage of vicious and prurient virtuous "associations." If they mean real work, why do they commence with scholar-like works, instead of cleansing the many foul cesspools of active vice, which are a public disgrace to London.—Sir R. F. Burton.

It would be an easy task, in some sense valuable, could a man of large experience and intelligent sympathies write a book for women, in which he would treat plainly of the normal circle of their physiological lives but this would be a method of dealing with the whole matter which would be open to criticism, and, for me at least, a task difficult to the verge of the impossible. I propose a superficial plan as on the whole the most useful. The man who desires to write in a popular way of nervous women and of her who is to be taught how not to become that sorrowful thing, a nervous woman, must acknowledge, like the Anglo-Saxon novelist, certain reputable limitations.—Dr. S. Weir Mitchell in *Doctor and Patient.*

The unwise restriction which popular prejudice has put upon conscientious and able American novelists, has prevented them treating the great problems of sin, and crime, and vice in actual life with that freedom and sincerity which Dickens, Thackeray, and George Eliot employed without offense, and to the best moral ends. When the best writers are restrained from dealing with the facts of life in a lofty tone, the worst writers will rush in and deal with these facts in a low and shameless tone and will receive a considerable support; because the public wants to receive truth, and, failing to get it from high and pure sources, will greedily take a garbled representation of it from low and impure sources. —*The Author* for February, 1890.

We need mental as well as moral courage. We are becoming a race of sycophants, cowards, and mental dwarfs, willing to take what others say rather than exercise our God-given reason, and too ready to take up and unthinkingly repeat any shibboleth or cry raised by conventionalism or by classes, which are in many instances beneficiaries of privilege or the children of ancient superstition and unreasoning bigotry, without

boldly, bravely, and conscientiously studying the whole question, as is our duty imposed by the Infinite who gave us the divine gift of reason that we might think for ourselves. On few questions is it more important for men and women to think bravely and independently than on those of marriage and divorce.—B. O. Flower, Editor of *The Arena.*

The United States postal authorities consider the improvement of the race too obscene a topic for discussion. A woman physician attempted to enlighten prospective mothers on the care of their bodies during an important period; a quotation from her essay was declared unfit for print, and the paper containing it was cast out of the mails by a Chicago postman who is still in office.

Certainly women receive very cavalier treatment at the hands of their men superintendents; they are to be scorned if they do not bear children; they are obscene and disgraced except they be willing to bear them ignorantly; they are driven out of employment the moment they are married for fear they may not know enough to resign when they should.—"Cousin Beatrice," in the San Francisco *Star.*

Men like Mr. Comstock ought to be confined to the pursuit and repression of everything like trade in positive, undeniable, unpretentious indecency or obscenity, but they ought to be very careful about going in quest of indecency in fields where the scent is likely to be light, and their opinions disputed. It is not only absurd, but mischievous, to have them engage in controversy, either in courts of justice or elsewhere, over the line between art and immorality. Their opinions are not worth a cent in such matters, and by airing them in public they always gather a prurient crowd around them, and stimulate the traffic in obscenity by their suggestions and their argumentation. If there is to be a prosecution in this Knoedler case, and these prints should send some one to jail, we, for our part, think Anthony Comstock should be the man.—New York *Evening Post*, 1887.

The aberrations of the sexual instinct are, to a great extent, unknown, even to psychologists, because it is very rarely that an author is found who has the courage to undertake the elucidation of forms of mental disease, the symtomatic details of which are repulsive to the moral sense; and, moreover, the hesitancy of authors to touch the subject is increased by the fact that, in dealing with it, they come to be associated in the public mind with traders in obscenity. . . . From a juridical point of view, an appreciation of this is of great importance, and we may say that at present prejudice usually extinguishes psychology, and the aberrations of sexuality are universally regarded, not as the outcome of mental disease and the object of medical treatment, but as heinous crimes, to

be punished with the utmost rigor of the law.—*Medical Press and Circular*, London, August 17, 1889.

It was Whitman's intention to strip off all mystery from the relation of the sexes, and to do away with all concealment. To beget children was nothing to be ashamed of. Bring the act and all its concomitants out into the light of day! Away with all veils! Now, obscenity implies the precise opposite of all this. It depends for its distinctive character upon mystery. It is to mystery what corruption is to life. The two go together. Obscenity is mystery perverted. It emphasizes the veil by lifting only the corner. Its spice consists in hints and sly glimpses and half-allusions. To drag the whole business out into the sunlight would put an end to all obscenity, and the term would soon cease to convey any meaning to mankind. So far the White Cross societies might well make common cause with the Whitman fellowship.—Ex-Judge Ernest Crosby.

There are not a few who are averse to having the subject [of prostitution] so much as mooted among those whose purity and virtue are the objects of their concern. The very title of such a book they would, if it were in their power, keep from meeting the eye of any member of their domestic circle. Such attempts at entire concealment, however, can, in few instances, in a world and a city like ours, prove successful; and in some cases there is reason to fear, where there is most the appearance of success, the failure is really the greatest; the very eagerness to conceal, on the one side, giving rise to the greatest secrecy and reserve on the other. I say this for the purpose, not of repressing prudent vigilance, but of modifying overstrained and morbid apprehensiveness, which, instead of accomplishing the desired ignorance, may lead to the restraint of a salutary knowledge.—Ralph Wardlaw, D. D.

From age to age the established guardians of public morals have held that it is not safe to impart knowledge on the subject of generation, about which knowledge is so much needed and desired. When the wondering child comes to father or mother with curious questions he is at once silenced with a commanding "Hush!" and goes away wondering and questioning still more. The child grows to youth, and stealthily obtains some snatches of knowledge which only sharpen its appetite for more. And that appetite leads him to swallow with avidity whatever information he may obtain on this subject, however foul it may be, with merely sensual, profane, and degrading associations. If the obscene-book vendor finds here a market for his wares, it is because we have unlawfully withheld knowledge which it is the lawful right of every human being to possess.—Loring Moody, in *Heredity*.

A learned jurist once said: "No legislative body in making laws should use language that has to be defended and construed by others." Every crime should be so clearly defined that there can be no mistaking it; murder, robbery, arson, burglary, forgery, and so forth are so defined that they cannot be misunderstood. It is not so with obscenity; the term is left to be construed by judges, lawyers, juries—whosoever chooses to decide what is obscene and what is not. If obscenity is a crime punishable by a fine and imprisonment, it at least ought to be correctly described so that an accused person shall not be at the mercy of a man or a number of men who construe what is obscene, what is indecent and immoral, by their own particular opinion or notion of morality. What is obscene to one man may be as pure as mountain snow to another; and one man should not be empowered to decide for other men. —Detroit *Sun*, January 17, 1886.

The Anthony Comstock legislation, as interpreted by the courts and the postal department, is entitled to no more respect than the acts of Parliament which our Revolutionary forefathers defied, or the pro-slavery statutes and decisions which the friends of liberty violated and apropos of which Wendell Phillips declared, "The chief use of good laws is to teach men to trample bad laws under their feet." We are as bound to break bad laws as we are to keep good laws. Whenever human law and divine law become irreconciliable, the human law, not the divine law, should be violated. "We ought to obey God rather than men." The leaders and saviors of men have often been law-breakers. Moses, Daniel, Peter, Huss, Luther, Tell, Kossuth, Bozzaris, George Washington, and John Brown were law-breakers. Thank God for the brave men and women who break bad laws for conscience, sake!—Dr. Jeremiah Justice.

We have been taught to believe that it was the greatest injustice toward the common people of old Rome when the laws they were commanded to obey, under Caligula, were written in small characters, and hung upon high pillars, thus more effectually to ensnare the people. How much advantage may we justly claim over the old Romans, if our criminal laws are so obscurely written that one cannot tell when he is violating them? If the rule contended for here is to be applied to the defendant, he will be put upon trial for an act which he could not by perusing the law have ascertained was an offense. My own sense of justice revolts at the idea. It is not in keeping with the genius of our institutions, and I cannot give it my sanction. . . . The indictment is quashed, and the defendant is discharged.—Judge Turner, on a trial for depositing an obscene sealed letter in the Post Office. Dist. Court West Dist. of Texas. U. S. *v.* Commersford, 25 Fed. Rep. 904.

Anthony Comstock has raided the Art Students' League in New York. The raid can be viewed as the expression of the pruriency that wells and bubbles in the Comstockian personality. Comstock sees evil everywhere, unconscious that all he sees is, to his vision, colored by the veil of his own nastiness. . . . Whatever he may have been in the beginning of a career the latter stages of which excite disgust, he is now a nuisance, and a menace to decency. He has himself became vicious. His presence is a threat against good morals. In all he says there is a manifestation of baseness. . . . The raid upon the Art Students' League was nothing more than lewdness exercising the right to be censor, and in doing this, to expose its bogus virtue, its grotesque zeal, and its crass ignorance. If the Society for the Suppression of Vice wants to suppress something the absence of which would be elevating to morals and cheering to intelligence, let it suppress its man Comstock.—Philadelphia *Public Ledger.*

In a sinless and painless world the moral element would be lacking; the goodness would have no more significance in our conscious life than that load of atmosphere which we are always carrying about with us. We are thus brought to a striking conclusion, the essential soundness of which cannot be gainsaid. In a happy world there must be pa n and sorrow, and in a moral world the knowledge of evil is indispensable. . . . The alternative is clear—on the one hand a world with sin and suffering, on the other hand an unthinkable world in which conscious life does not involve contrast. . . . What would have been the moral value or significance of a race of human beings ignorant of sin and doing beneficent acts with no more consciousness or volition than the deftly contrived machine that picks up raw material at one end and turns out some finished product at the other? Clearly, for strong and resolute men and women, an Eden would be but a fool's paradise.—John Fiske, in "Through Nature Up to God."

Still another cause is to be found in the infernal system of laws that have been enacted and are now in force, having reference to the entire question of sex relations of every description, marital or otherwise. . . . We have permitted to grow up in this country, under federal protection, the most vicious system of censorship that has ever disgraced a civilization. Under its rulings, not only has it come about that it is practically impossible to introduce into the United States the works of foreign writers of the highest authority on sexology, but any one attempting to publish, either in the public prints or in book form, anything touching upon such vital subjects, not only places himself or herself in danger of fines at the hands of the courts, but of all other forms of legal persecution, including a term of years in prison. So, with suppressing the informa-

tion on one side, and ignoring the matter of crass ignorance on the other, of such matters, the result is precisely what the courts and the clergy are deploring.—Dr. R. W. Shufeldt, in "The Whipping Post," *The Arena*, February, 1906.

There are some offenses worse than the circulation of obscene literature. One of them is the practise of fraud and lying of which Anthony Comstock has apparently been guilty. Mr. Comstock may be able to reconcile his conduct with the laws of God and morality, but this court cannot do so. I cannot approve the conduct of the government officer who has lured the defendant into the commission of a crime. I am aware that such methods are often pursued in dealing with alleged criminals, but I am not willing to lend my assent to such doctrine. If government officers cannot detect criminals and enforce laws without resorting to dishonest practices, they had better resign their positions.

Mr. Comstock is known as a very zealous agent in preventing the spread of obscene literature; but, in this case, instead of appealing to state law, which is ample for the emergency, he has seen fit to assume the name of another and lure the defendant into crime.—U. S. Judge Jenkins in the trial of C. N. Casper, as reported, *Twentieth Century*, February 11, 1892.

Anthony Comstock, the self-constituted Keeper of Public Morals, seeks to deny to the community afflicted with him the right of free choice in questions of art and literature. That Mr. Comstock has neither a critical knowledge of the one nor a comprehensive acquaintance with the other, does not matter in the slightest. That his professional prudery often brings him into direct and disastrous conflict with the opinions of experts when the status of "obscene" pictures or books is concerned, is of no account whatever.

But even Comstock, king of the prudes, with all his beetle blindness of moral vision, will hardly deny to his subjects the right of free speech. His attitude in this respect is, however, probably a matter of necessity rather than choice. If he had his way, it is easy to conceive of every man having a modified phonograph attached to his mouth, the records thereof being submitted to his majesty, to be passed upon, and if not in accord with Comstockian standards, due punishment to be meted out to the offenders.—Bernarr Macfadden.

Mr. Anthony Comstock comes to the rescue of the Society for the Suppression of Vice, in a pamphlet entitled: "Morals *versus* Art" (J. S. Ogilvie & Company), in which he repeats his familiar arguments regarding the nude in art, and shows how incompetent he is to discuss the question and how ill-fitted by nature or education to fill the important office he

occupies. In saying that he has no objection to a picture or statue of the nude female figure, provided it is "free from unchaste posture or expression," he simply begs the question by assuming that he is to be the sole judge in the matter and that his decison is final. A legislative enactment which puts so much power in the hands of an injudicious not to say fanatical man, is a nuisance which ought to be abated. He reviews the case of Mr. Knoedler and his photographs of pictures by eminent modern artists, in the Paris salon, in a thoroughly one-sided manner, which, however it may gratify his self-complacency, will not satisfy common sense people. His remarks about New York artists are bitter, but harmless and his attacks upon the press ridiculous.—New York *Sun.*

Society takes off its hat in the presence of the judge who sentences the adulteress to prison, or of the severe mistress who sends away her servant who has been betrayed, but it claps applause to the poet who sings of love without even mentioning marriage, until its very palms ache. Every one in public assents unctuously to the proposition that it is a sin to obey the promptings of the heart, but in secret he listens to and obeys them with enthusiasm, and does not consider himself wicked in doing so. The theory of Christian morality exists only because no one applies it in practice. The bonds of an enormous conspiracy unite all civilized humanity, making every human being a member of this immense secret society—on the street they bow reverently to all the theological doctrines they may meet, but at home, with closed doors, they sacrifice to nature, and wreak their vengeance upon anyone who divulges the secrets of their Eleusinian mysteries; they express their abhorrence of the universal hypocrisy, and even have the audacity to acknowledge in public places the gods they have installed as presiding deities and worship in private. —Max Nordau

It is a singular thing that many articles which are read by proper persons in a proper place and with proper surroundings do not suggest to the reader even a trace of obscenity, but when the same articles are alleged to be obscene and are read in an unusual place, under unusual circumstances, and in an unusual way, that the allegation sticks to them and their character is thus fixed. The writings of Mr. Berrier, for instance, would not have seemed obscene if they had come into the hands of President McKinley, we will say, and he had read them seriously. Obscenity would not have occurred to him. But coming to him now stigmatized by an indictment, by a conviction, and by a felonious imprisonment, they will probably be received in a different character. The accusation of the agent of a vice society convinced the Grand Jury. The indictment convinced the trial jury. The jury convinced the Court and the Court convinced the public. Yet there was no guilt.—F. H.

C., in a private letter. [Later President McKinley did pardon Berrier because convinced, so the newspaper reports said, that the matter was not obscene.]

A very large part of the widespread ignorance in matters of this kind [perversion and inversion] is to be found in the professions of law and medicine, and to a criminal extent (so far as the public is concerned) is largely due to laws that have been enacted in this country in regard to the publication and selling of works devoted to description and treatment of psychical and sexual abnormalities in our own species. Authors of works of this class meet with the greatest difficulty when they come to have them printed and sold. He or she is at once threatened with legal prosecution and fine and imprisonment. Not only is this the case regarding works published in our country, but, through another most vicious system, works published abroad by authors in other countries, having to do with the psychology of sex and kindred subjects, are either denied introduction here altogether, or so heavily taxed in the custom house as to materially discourage their introduction. It is this miserable state of affairs that is responsible for the prevalence of so much ignorance in regard to sexology in general, both normal and abnormal.—*Pacific Medical Journal*, July, 1905.

Whoever reads, with philosophic eye, the history of nations, and their laws, will generally find that the ideas of virtue and vice, of a good or a bad citizen, change with the revolution of ages; not in proportion to the alteration of circumstances, and consequently conformable to the common good; but in proportion to the passions and errors by which the different law-givers were successively influenced. He will consequently observe that the passions and vices of one age are the foundation of the morality of the following; that violent passion, the offspring of fanaticism and enthusiasm, being weakened by time, which reduces all the phenomena of the natural and moral world to an equality, become by degrees the prudence of the age, and an useful instrument in the hands of the powerful or artful politician. Hence the uncertainty of our notions of honor and virtue; an uncertainty which will ever remain, because they change with the revolutions of time, and names survive the things they originally signified; they change with the boundaries of states, which are often the same both in physical and moral geography.—Beccaria, "Crimes and Punishments," Fourth Ed., 1775.

Cornutus [informed against by one of the spies of Tiberius] having put an end to his own life—believing as he did that prosecution was a prelude to destruction—a motion was made in the senate that whenever the person accused of high treason prevented judgment by a voluntary

death, the informers should be entitled to no reward. The fathers inclined to the opinion; but Tiberius, in plain terms, without his usual ambiguity, shewed himself the patron of the whole tribe of informers. "The course of justice," he said, "would be stopt, by such a decision, and the commonwealth be brought to the brink of ruin. It were better to abrogate all laws at once, than to remove the vigilance that gives them energy." Thus that pernicious crew, the bane and scourge of society, who, in fact, have never been sufficiently restrained, were let loose, with the wages of iniquity in view, to harass and destroy their fellow creatures.

In proportion as they rose in guilt, informers became sacred characters. If any were punished, it was only such as were mere novices in guilt, obscure and petty villains, who had no talents for mischief.—Tacitus.

I expect to see the day when schools for the training of mothers will be the chief corner-stone of a better civilization than the world has ever seen, and when young women will attend these schools more generally than they now flock to the cooking-schools that are such a sign of promise in the land, and far more reverently will study their possibilities as co-workers with God in the endowment and training of His human image. . . . God hasten the day of a scientific motherhood that will build into her child before and after birth the beatitudes of wholesome appetite! . . . It is better to stir a question without deciding it than to decide a question without stirring it. . . . Innocence may be founded on ignorance, but virtue is evermore based upon knowledge. . . . I believe that a constant evolution is going forward in the home as in every other place, and that we may have but dimly dreamed the good in store for those whom God for holiest love hath made. . . . Last of all, and chiefest, the magnum opus of Christianity, and Science, which is its handmaid, the wife will have undoubted custody of herself, and, as in all the lower ranges of the animal creation, she will determine the frequency of the investiture of life with form.—Frances E. Willard.

We know of no [other] spectacle so ridiculous as the British public in one of its periodic fits of morality. In general, elopements, divorces, and family quarrels pass with little notice. We read the scandal, talk about it for a day, and forget it. But once in six or seven years our virtue becomes outrageous. We cannot suffer the laws of religion and decency to be violated. We must make a stand against vice. We must teach libertines that the English people appreciate the importance of domestic ties. Accordingly some unfortunate man, in no respect more depraved than hundreds whose offenses have been treated with lenity, is singled out as an expiatory sacrifice. If he has children, they are to be taken

from him. If he has a profession, he is to be driven from it. He is cut by the higher orders and hissed by the lower. He is, in truth, a sort of "whipping boy," by whose vicarious agonies all the other transgressors of the same class are, it is supposed, sufficiently punished. We reflect very complacently on our own severity, and compare with great pride the high standards of morals established in England with the Parisian laxity. At length our anger is satiated. Our victim is ruined and heart-broken and our virtue goes gently to sleep for seven years more.—Lord Macaulay in his review of Moore's "Life of Byron."

Resolved, That we protest against the usurpation of governmental functions by private detectives, and by sectarian societies and agencies, as false in principle and antagonistic to orderly government by the people. That the increasing frequency of such usurpation is a constant menace to our government, an inevitable cause of distrust and demoralization, and a natural source of blackmailing and corruption.

Resolved, That we protest against all laws by means of which irresponsible private societies are enabled to seize upon governmental powers, or to use the machinery of justice for the furtherance of personal ends.

Resolved, We insist upon a return to fundamental principles of Free-Speech, Free-Press and Free-Mails, and an adherence to constitutional guarantees which assure those rights to the citizen, and we demand that the laws shall be enforced only by the duly authorized officers of the people.

Resolved, In view of the mischievous possibilities of the Comstock laws, we demand that they be repealed, as being a source of confusion in the administration of justice and a practical denial of constitutional rights.—American Federation of Labor, Albany, January, 1894.

The American law authorizing a post office official to decide what is and what is not obscene literature, places an arbitrary authority in the hand of an unknown censor which would not be tolerated for a moment in Great Britain.* The Comstock law, as it is called, is so obviously capable of abuse that from time to time men who hold the faith which Milton held in the liberty of the press have protested against such absolute power being lodged in the hands of any official. If, at this moment, this unknown bureaucrat were to decide that the Song of Solomon and Shakespeare's poems were obscene, anyone who sent a copy of the Bible or Shakespeare through the post would be liable to be sent to jail on the charge of using the mails for circulating obscene literature. In a recent case which led to the tragic death of a friend of my own, the

*Yet England endures a known Dramatic Censor with like inquisitorial powers and like irresponsibility.

judge expressly refused to listen to any evidence as to the morality of the book in question. When the post office, he ruled, had decided that any publication was obscene, the function of the court was *limited* to ascertaining whether or not an attempt had been made to send that book through the mails. This law arms a post office official with absolute power to place whatever publication he pleases on a far more terrible *Index Expurgatorius* than that of Rome. Its existence in a free country is a temporary anomaly and an *intolerable anachronism.*—William T. Stead in July, 1905, *Review of Reviews*, of London.

Suppose a print-seller, with a view to business, exposes in his shop windows a number of objectionable pictures, for the attraction of those only who choose to look at them and possibly buy them. I have occasion to walk through the street; am I a party? How am I injured? Is my sense of decency shocked and hurt? But if this is sufficient ground for public interference, then I have a right to call for its assistance when my taste is hurt and shocked by a piece of architecture which violates the laws of high art. I have similar grounds of complaint when a speaker gets up in a public place and preaches doctrines which are positively loathsome to me. I have a right of action against a man clothed in dirty rags, or with pomaded hair, or a scented pocket handkerchief.

If you reply that in these cases my hurt is not painful enough to justify any interference with another's freedom, I have only to cite the old and almost forgotten arguments for the Inquisition. The possible eternal damnation of my children, who are exposed to heretical teaching, is surely a sufficiently painful invasion of my happiness to warrant a most strenuous resistance. And even to modern ears it will seem reasonable that I should have grounds of action against a music-hall proprietor who should offend the moral sense of my children with songs of a pernicious character. This test will not do. . . . No man has ever yet succeeded in defining virtue *a priori.*—Wardsworth Donisthorpe, in "A Plea for Liberty."

The power that is asked for [one enlarging the postal censorship] is certain to be abused. We remember when southern postmasters refused to deliver the *Tribune* to subscribers, on the ground that it was "incendiary matter." Nobody needs to be told that, in any political campaign, every political party having control of the post offices would use its power to hinder the other party, that the sacredness of private letters would be subject to the needs of partisans and the whims of ignorant or rabid postmasters. An inspected mail-bag is the sign of the vilest despotism. The thing became so vulgarly shameless in Italy, that travelers were unblushingly told that the office had not yet read their letters! . . . The evil must be reached in other ways. Liberty has evils

of its own, but liberty is worth a hundredfold more than the best of despotisms. The people who would like to suppress sin by main force believe that they would suppress only sin. Pius IX. believed that he suppressed only sin while ruling the most vicious and ignorant population in the Italian Peninsula. Despotism may mean well in its sources; it becomes wicked and corrupt long before it reaches the masses under it. You must meet sin chiefly by moral and religious restraint; a little can be done by a free country through its laws, and that little we shall always favor. But we are not willing to sacrifice, or even put in peril, a free correspondence and a free press for any purpose whatever.—New York *Methodist.*

I have conversed, as man with man, with medical men on anatomical subjects, and compared the proportions of the human body with artists —yet such modesty did I meet with that I was never reminded by word or look of my sex, of the absurd rules which make modesty a pharisaical cloak of weakness. And I am persuaded that in the pursuit of knowledge, women would never be insulted by sensible men, and rarely by men of any description, if they did not by mock modesty remind them that they were women; actuated by the same spirit as the Portuguese ladies who would think their charms insulted if, when left alone with a man, he did not at least attempt to be grossly familiar with their persons. Men are not always men in the company of women, nor would women always remember that they were women if they were allowed to acquire more understanding. As a sex, women are more chaste than men; and as modesty is the effect of chastity, they may deserve to have this virtue ascribed to them in rather an appropriate sense; yet I must be allowed to add a hesitating *if*, for I doubt whether chastity will produce modesty, though it may propriety of conduct, when it is merely a respect for the opinion of the world, and when coquetry and love-lorn tales of novelists employ the thoughts. Nay, from experience and reason, I should be led to expect to meet with more modesty among men than women, simply because men exercise their understandings more than women.—Mary Wollstonecraft.

All of these Comstock laws, from 1872–3 down, were and are of theological inspiration and origin. In their first draft and intent they included "blasphemy" and freethought as well as obscenity and immorality. Only the latter two words were afterwards found to be necessary, for by making their meanings *elastic* they would cover all that was necessary to secure the censorship and control of the people's literature, and so of their thoughts, feelings, and conduct. In a word, it is the revival of the Inquisition in purpose and method in our secular republic, by a theological usurpation of the federal government. In morals, for in-

stance, we have this inevitable discussion of sex relation and affairs which to the old cast-iron intellect and conscience of that theology is simply an impudent "obscenity." There they would compel and have simply authority, obedience, ignorance, and *silence*, presided over by doctor and priest, with Mr. Comstock and the federal courts to drive to prison or suicide all recalcitrants, to the tune of "obey" and "no divorce!" Ignorance, fraud, and cruelty are the results of this usurpation. People cannot and will not consult doctors or priests for necessary truth even if they could *afford* it—which they cannot. The communication of such truth and knowledge by *print* is a public necessity. What a fraud and a shame to call such literature "obscene" and its authors "criminals"! And the murderous cruelty of all this is *ours*, unless we protest and do all we possibly can to bring it to an end.—Thaddeus B. Wakeman.

Professor C. W. Malchow, of Hamline University, Minneapolis, has put forth a book on "*The Sexual Life*," but this has caused him to be convicted in a United States Court on the charge of obscenity, and so arises the immediate necessity of a protest from every member of the profession and all schools, a protest against such ignorant meddling with a physician's rights, in his best effort to perform one of his duties. A physician who finds a good thing or a new idea is expected to share it with his brethren, and for this a free medical press is absolutely necessary. Furthermore, it is absurd in the highest degree to hold a medical writer down to the plane of what boys and girls may read, as some courts seem disposed to do. To the judge who so decrees, the physician may well retort: "Very well, your Honor, the next time you have occasion to visit me or some other physician, for advice on a private matter (hemorrhoids, maybe), I will decline to do anything for you that may not properly be done in the presence of my boy and girl." Extremely ridiculous, of course, but not a whit more so than for a judge to tell us medical men that we must write and print only what will do for kindergarten, primary, and lower class grades of scholarship. It simply cannot be that medical literature is to be censored on this basis, and the proper stand for the profession to take is to demand free press in sexology for text books addressed to medical men, and also a large amount of liberty, broadmindedness, and discretion, even some special privileges, for such instruction as medical minds find necessary for their clients, adult and immature.—E. B. Foote, Jr., M.D., in *The Eclectic Review*, July, 1905.

The professional or amateur "detective" who accepts or assumes the "duty" of mixing with his fellow men in disguise (moral or physical), of living the life of a sneak, for the purpose of securely playing the spy upon others—who will tempt twenty in order to beguile the weakest of the

number into wrong-doing, is not only more odious, but more guilty, than the victim he entraps and betrays. A state among whose trusted servants are the *mouchard*, the *sbirro*, or the police spy, is slowly but surely cutting its own throat. When the representatives of law are the patented and secure law-breakers—when the representatives of order are the contrivers of disorder for the purpose of quelling it by brute force, they do but sow the wind to reap the whirlwind by which they and their masters will ultimately be swept away. . . . Happily for mankind, however, not even the priesthoods are eternal or infallible in their mischief. The present self-ordained ones are somewhat more fallible than past specimens which progress has left standing in the desert; and humanity, though disturbed at times by the clamor of those phantoms of the past, who unwilling to be left behind feign to belong to the march, and even strive to direct its course, will quickly perceive the daylight shining through their fleshless forms, smile at them and pass on. Unhappily, however, the rotten altar, to the *outward seeming*, is still standing, and the victims chastized upon that altar suffer none the less for being sacrificed in the name of a fiction; for this reason only, it is well that we should harken to the words of the chants intoned by its high priests.—*Personal Rights Journal* of London, 1889.

As a partisan of individual liberty, I am not offering an opinion whether marriage as at present enforced is right or not, whether it should be more free, whether divorce should be easier or not; but as an individualist, what I am striving for is that those who do not believe in marriage should have the same liberty [of discussion] as those who do. . . .

So there are a number of obsolete laws on the statute books sufficient to hang us all, which, however, are kept in abeyance till some individual or party peculiarly unpopular is required to be put down, when they are thrust upon us to every one's surprise. Thus Trafalgar Square was a place for public meetings for years, but when the Socialists wished to meet there the most astonishing restrictive laws were refurbished. So after certain things have long been allowed, some luckless individual, perhaps a suspect of one of the spy societies, is pounced upon. All manner of blasphemy has been written and spoken freely, but suddenly the editor of the *Freethinker* [of London] is made a scapegoat. All sorts of meetings have been held on Sunday with payment at the doors, but if Spiritualists, Socialists, or any other unpopular party were to begin them, probably they would be summoned. So we have an *index expurgatorius* in literature extending even to our public libraries. . . .

A religious man is not supporting Spiritualism or Atheism because he would give the Spiritualist and Atheist the liberty he himself enjoys. Nor is the man of strict moral principles supporting vice if he attacks the law which tries to put it down. All he means is this—I abhor vice,

but I believe your interference makes these things worse.—A. F. Tindall.

On the other hand, books written from an entirely different motive have been classed as immoral, and it would be safe to hazard the assertion that there are few great works of literature that have not been denounced as immoral. The word "morals" comes from the Latin word "*mores*," a word which means customs. The morals of a community, when we reduce the word to lowest terms, are the customs of the community. Now, when a man attacks the customs of a community he may be called immoral. The book that attacks the customs of a community may be called immoral. But it does not follow that the attack upon these customs is due to any evil intent on the part of the author. On the contrary, his motive may be of the highest, his protest against the customs or morals of the community being based on what appears to him a higher conception of morals than the one that now obtains credence. This is probably the case with Bernard Shaw. We are not saying that he is in the right, but all of his antecedents are testimony that his work is not intended to appeal to the depraved in man, but is intended to start a higher current of feeling than that which prevails to-day. . . .

The human race must acquire "the philosophic mind" that Wordsworth tells us comes with the years. With a philosophic mind, Bernard Shaw and all other writers with new ideas would be quite safe. The great works of literature could then be read with profit and their "immorality" would be the antechamber to a higher morality. As it is, books once pronounced immoral have a striking habit of becoming moral in time, while the sinner of yesterday is the saint of to-day.—Denver *Republican*.

After all, we are not very wise in dealing with obscure but vital questions that underlie the very foundations of civilized society and affect the spiritual and moral health of the race. We wrangle in public over the responsibility of the law and its ministers for the disasters that overtake uncared-for youth in the congested and vitiated life of cities. Then we shrink in private from the frank warning and careful guidance of ignorant children and the social education of parents almost as ignorant. We lament the domestic unhappiness that fills the divorce courts with wrecks of families. We deplore the errors of hot young blood that wreck so much raw material for families before it reaches the supreme fulfilment of nature's purpose in marriage. But we send authors and publishers to the penitentiary when they try to popularize in this country some of the scientific knowledge of the laws and conditions of vitality which European experience and investigation have gathered into works of supreme utility. We pour out money like water to endow colleges and universities to teach everything under the sun from Sanscrit to mak-

ing mud pies, excepting the knowledge of the laws and conditions of that upon which the vitality and perpetuity of the race depend. We teach our sons and daughters everything on earth except how to be fathers and mothers. We shun this supreme subject like the plague. We crucify those who would enlighten the ignorance of the mature and shield the innocence of the young. We drive our sons to advertising harpies to be poisoned and fleeced. We throw our daughters into the streets with less protection from the temptations that assail youth than we give our domestic cattle.—The Minneapolis *Tribune.*

There is a story in Pausanias of a plot for betraying a city, discovered by the braying of an ass; the cackling of geese saved the capital; and Cataline's conspiracy was discovered by a whore. These are the only three animals, as far as I remember, famous in history as evidences and informers. . . .

Diligent inquiries into remote and problematical guilt, with new power of enforcing them by chains and dungeons, to [against] every person whose face a minister thinks fit to dislike, are not only opposite to that maxim, which declareth it better that ten guilty men should escape, than one innocent suffer; but likewise leave a gate wide open to the whole tribe of informers, the most accursed, and prostitute, and abandoned race, that God ever permitted to plague mankind.

However orthodox my sentiments may be while I am now writing, [those very sentiments] may become criminal enough to bring me into trouble before midsummer. And indeed, I have often wished, for some time past, that a political catechism might be published by authority four times a year, in order to instruct us how we are to speak, write, and act, during the current quarter. I have by experience felt the want of such an instructor. . . .

I number among false witnesses all those who make a trade of being informers in hope of favour and reward; and to this end employ their time, either by listening in public places to catch up an accidental word; or in corrupting men's servants to discover any unwary expression of their master; or thrusting themselves into company, and then using the most indecent, scurrilous language; fastening a thousand falsehoods and scandals upon a whole party, on purpose to provoke such an answer as they may turn to an accusation. . . . A man who is capable of so infamous a calling as that of a spy is not very much to be relied upon.—Swift.

Official censorship is quite apt to change a normal desire for proper information into unhealthy curiosity and in that and other ways do more harm than good. The most successful way to fight an evil is to put good in its place. For example, decent entertainments have cleaned up Coney Island. They have succeeded where laws and police and punishment had failed.

Familiarity with the appearance of the healthy human body should be encouraged, instead of practically forbidden, as now. No material structure is more worthy of general study and admiration. If well selected pictures and statues of the best human figures could be put in our school-houses and children be led by their teachers to look upon and think of them in the right way, contaminating influences would have much less chance of doing harm than is now the case.

I firmly believe that the successful moral reform of the future will come along that line. For the present, we have a general system of indiscriminate repression and suppression, which is occasionally brought to public notice by some sensational performance of Comstock's.

This system is professedly for the protection of children and the purity of the home; but its natural and common result is to poison the very fountains of life.

Competent physicians tell us that there is widespread physical and moral suffering resulting from the present policy of preventing sex knowledge being acquired in a legitimate and healthful way. To say that the people can go to the doctor does not meet the case. They will not go until after the harm has been done.

The modern way of getting information is from the printed and pictured page. The use of this for the benefit of the general public is now debarred in the very field of all others where correct and timely information, widely diffused, is of transcendent importance.

How long will a sensible people allow this to continue? Henry Smith, Prof. of American History in Yale, in New York *Sun*, Aug. 8, 1906.

We do not approve of making a feature of discussion and investigation of the sexual relations. We fully grant their importance and the need of their study. Men and women are cursing the day they were born, are fighting, going insane, driving others insane, making themselves devils and earth a hell, all for want of the knowledge that can come only from a free and untrammeled discussion of sexual physiology and pathology, by those who are competent. But this is exactly what is not to be had under present conditions. No such discussion is possible in any publication that circulates by post to a general public; hence any attempt in that direction is sure to be futile. It is not that the attempt to carry it on will surely bring trouble—to a man of the stuff before us martyrdom holds out allurements not to be resisted—it is because of certain failure and wasted efforts sadly needed in directions where success is possible. Our objection is not prudent cowardice but calculating utilitarianism.

There is this to be said about discussions of sexual matters. As one goes further into the topic, his viewpoint alters. The limits he

first set to what is permissible in the discussion recede, until things appear as a matter of course that at first he would unhesitatingly have denounced as obscene. Then he is called to face a charge that is in itself a disgrace. And we sympathize with a friend who asked for vaccination because he preferred to "die of a clean disease." Once there was a soldier, noted throughout his division for his many heroic exploits. Time and again he braved and escaped dangers that daunted the boldest, but he seemed ever to hold a charmed life. At last he was tremendously kicked by a big mule, and this time death was inevitable. When informed of his fate, to the amazement of all he burst into tears. Seeing the contempt on his comrades' faces, he exclaimed: "It's not that, boys; not that I am afraid to die; but after all the high and mighty chances of dying I've had, to be kicked to death by an infernal, long-eared heehawing son of a j——s!" Same as to Comstock!—Prof. William F. Waugh, *American Journal of Clinical Medicine*, May, 1907.

It is hardly possible that a society for the suppression of vice can ever be kept within the bounds of good sense and moderation. If there are many members who have really become so from a feeling of duty, there will necessarily be some who enter the society to hide a bad character, and others whose object is to recommend themselves to their betters by a sedulous and bustling inquisition into the immoralities of the public. The loudest and noisest suppressors will always carry it against the more prudent part of the community; the most violent will be considered as the most moral, and those who see the absurdity will, from the fear of being thought to encourage vice, be reluctant to oppose it. . . . Beginning with the best intentions in the world, such societies must, in all probability, degenerate into a receptacle for every species of tittle-tattle, impertinence, and malice. Men whose trade is rat-catching, love to catch rats. The bug destroyer seizes on his bug with delight; and the suppressor is gratified by finding his vice. The last soon becomes a mere tradesman like the others; none of them moralize or lament that their respective evils should exist in the world. The public feeling is swallowed up in the pursuit of a daily occupation and in the display of a technical skill. An informer, whether paid by the week, like the agents of this society, or by the crime, as in common cases, is in general a man of very indifferent character. So much fraud and deception are necessary for carrying on his trade—it is odious to his fellow subjects—that no man of respectability will ever undertake it. It is evidently impossible to make such a character otherwise than odious. A man who receives weekly pay for prying into the transgressions of mankind and bringing them to consequent punishment, will always be hated by mankind, and the office must fall to the lot of some man of desperate fortunes and ambiguous character. If it be lawful for respectable men to com-

bine for the purpose of turning informers, it is lawful for the most despicable race of informers to do the same thing; and then it is quite clear that every species of wickedness and extortion would be the consequence.—Rev. Sidney Smith.

At the public meeting of the New York Society for the Suppression of Vice, the Rev. Dr. Duryea, of Brooklyn, plead earnestly for the proper education of the young in the knowledge of their own bodies and of all their functions; and since his speech was extemporaneous and not reported elsewhere, we were obliged by the following quotations to snatch from irretrievable loss these few good points by the aid of the phonographic art: "There is no reason for hesitation or shame in the presence of truth. All that has ever caused a blush has been the destruction of truth, in the form of error, and the corruption of that which is natural, in the form of vice. I believe that God in his purity conceived the human form; God in his spotlessness devised the sexual organs; God in his holiness infused life in the sexual power, and God in his glory linked man with woman. I am not ashamed of what God has put in me. I will never blush for any power with which he has invested me. I believe that the father should teach the son his whole nature, that he should describe the use of all the organs, and tell the compensations, social and mental, of the fulfilment of duty, and the ruin of abuse and perversion. I believe that the mother, in the atmosphere which a mother can throw around her daughter, could open the mind at a proper age to the nature of herself, her powers, and future relations. If God made our children as they are, we ought not to be ashamed to tell them how they are made and for what. . . . You think to keep your children pure and innocent by keeping them ignorant, but this society has told you you cannot keep them ignorant if you try. The devil will inform them, if you do not. He will not give them the truth in pure light, but in light that has passed through a medium of his own device."

There is the very widest distinction to be made between writings intended to debauch the mind and incite vice and those intended to produce the opposite results by the dissemination of knowledge and of sound ideas regarding the sexual nature. Classing the two together is a monstrous misjudgment. The suppression of any sober, candid discussion of questions that concern the well-being of society is not only a mistake as a matter of policy, but it abridges the freedom of speech and of the press which is guaranteed by the constitution of the country.—Beecher's *Christian Union*, June 28, 1876.

If "the proper study of mankind is man," the first study of men and women—aye, of boys and girls—should be subjective as to body and mind. The human temple should be held sacred, and the best way to

keep it holy is to keep it wholesome—to strive always for the "*mens sans in sano corpore.*" In order that this may be accomplished, there must be knowledge. No form of useful knowledge should be "forbidden fruit"—the study of no part of the human machine tabooed. *The Times* has remarked more than once upon the unwisdom of parents who fail to instruct their sons and daughters in the functions of their bodies; has discoursed more than once upon the ignorance that leads to the ruin of both body and soul. It is the ignorance of prudery, of mawkish modesty, which in truth is the antithesis of modesty. If every boy and girl were instructed at home in the elements of physiology—if the mysteries of the sacred temple were reverently revealed, there would be less of the hellish crime that has startled this city in the last fortnight. The race would be stronger, saner and happier if "man, know thyself," were the motto of all parents and the precept set before all youth. Yet in this twentieth century, when human enlightenment in all matters is supposed to be advancing with strides greater and more rapid than ever before, a Minnesota jury in a federal court has found a physician, Dr. Malchow, and his publisher guilty of sending obscene matter through the mails and the judge of that court has sentenced the man to the state prison for a year and a half because the one wrote and the other printed a book discussing in a scientific way the most important functions of the body. Was ever Russian censorship or barbaric suppression of printed speech exercised in a more hateful way? We are told, forsooth, that the book is sold to the laity and is *therefore* a harmful and unlawful publication—that the public should go to the physicians for such information as that work contains. Should we not then be commanded, with equally sound logic, to go to the doctor instead of the library when we would learn something about the construction and uses of the eyes, the ears, the liver, the stomach, the lungs or the heart? Should we not visit the astronomer privately in his study when we seek information about the wonders of the stellar and the planetary systems? Let the laws make obscenity dangerous and odious by all means, but how can the courts class as obscene a decently and truthfully written discussion of facts that every one would be better for knowing? No wonder physicians are voicing an indignant protest at the verdict and sentence in the case of Dr. Malchow and Mr. Burton.—The Minneapolis *Times.*

An editorial in the Manchester (England) *Guardian* of November 3, 1905, quotes as follows:

"A man, or rather a demon clothed in the flesh and dressed as a man, and the most notorious profaner and libertine the world has seen, has been so impious as to send forth from his diabolical brain a play now ready to be shown in public on the stage, scoffing at the whole church. He jeers at its most sacred character and its most divine function . . .

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the leading and directing of souls and families by wise guides and holy conductors."

This is not, as might be thought, a remark passed by one of the enraged New York papers on Mr. Bernard Shaw's play, "Mrs. Warren's Profession." It was said by one of the equally positive critics who were equally successful in getting Moliere's "Tartuffe" prohibited after a single performance at Paris in 1664.

"My comedy," Moliere said 237 years ago, and Mr. Shaw may say today, "had no sooner appeared than it was struck as with a thunderbolt by a power that should command respect." In both cases the protest against a play moral beyond the common run of plays was raised in the name of morality, religion, and family life. In both cases point is given to the spectacle by the toleration which the enraged persons extend at the same time to the real immoralities of the contemporary theater. Moliere tells a little story:

"A week after it ['Tartuffe'] was forbidden, a play called 'Scaramouche Ermite' was acted at Court, and the King, as he left the theater, said to the Prince [Condé]:' I should like to know why the people who are so greatly scandalized at Moliere's comedy say nothing about "Scaramouche."' The Prince answered: 'The reason is that "Scaramouche" laughs at heaven and at religion, about which these gentlemen care nothing, and that Moliere's comedy laughs at the men themselves, and this they will not tolerate.'"

If you look, another day, you will see many of those who find the work of Mr. Shaw "immoral" smacking their lips at the lubricities of some winking and leering "musical comedy," or tittering at some indecent tit-bit of music hall innuendo or pantomime gag. What they dread is the advent of a dramatic revival that would make men's stomachs turn at entering this reeking under-world of the theater of to-day.—*The Public.*

The action of this lawyer [Oliver Stevens, prosecuting attorney, who, in Boston, suppressed Whitman's "Leaves of Grass,"] constitutes a reef which threatens with shipwreck every great book of every great author, from Aristophanes to Moliere, from Eschylus to Victor Hugo; and the drop of blood that is calm in view of such an outrage proclaims us bastard to the lineage of the learned and the brave. To-day Oliver Stevens has become the peril of Shakespeare. He knows well, no one knows it better, that under his construction of the statues neither Shakspeare nor the Bible could be circulated, and no one knows better than he that neither of these books is obscene. . . .

Even his bolder and brassier ally in this holy war—Mr. Anthony Comstock—even he tempers valor with discretion for the nonce, and says he "will not prosecute the publishers of the classics unless they specially advertise them!" There are contingencies, it seems, in which

the great works of the human mind will be brought under the operation of "the statutes against obscene literature." Who knows, since fortune favors the brave and enterprising, but that they may yet, step by step, succeed in bringing the fourteenth century into the nineteenth, and re-erect Montfaucon—that hideous edifice of scaffolds reared by Philippe le Bel, where the blackened corpse of Glanus swung beside the carcase of the regicide, for having translated Plato, and where Peter Albin dangled gibbeted beside the robber, for having published Virgil! If this fond prospect is still somewhat distant, it is only, it seems, because Mr. Anthony Comstock lets his *I dare not* wait upon *I would*, and delays the initial step until the classics are "specially" advertised. Meanwhile Mr. Oliver Stevens also awaits for fresh relays of courage, and yet ventures to attempt only to crush Walt. Whitman. For that act of daring he shall reap the full harvest of reward. . . .

There is not a state in the Union, there is not a country in the civilized world, in which his deed shall not make him famous forever. I pledge myself to attend to his interests. The prosecutors of a good man's thought are precious to such as I, and we should indeed be recreant to duty if we failed to let it be widely known, and in such form as never to be forgotten, that Massachusetts has a district attorney, named Oliver Stevens, true to the blood of Mather, faithful to the darkest traditions, who wrenched the law from its purpose to crush and extinguish "the most extraordinary piece of wit and wisdom America has yet contributed"—the sanest, the largest, the most splendid and enduring literary product which the Celto-Saxon race has given the age. Let his fame console him even in the sad event of his being expelled from the office Concord and Harvard may say he has disgraced and polluted.—William Douglass O'Connor, in the New York *Tribune*.

. . . I am in a difficulty, and as it is one arising out of a question of jurisprudence, I know no one else to whom I can apply for assistance, with so sure a hope of relief, as to you.

In the revision of my criminal code, I have now under consideration the chapter of offenses against public morals. This is intended to comprehend all that class which the English jurists have vaguely designated as offenses *contra bonos mores*, finding it much easier in this, as they do in many other cases, to give a Latin phrase, which may mean anything, rather than a definition.

I have serious thoughts of omitting it altogether, and leaving the whole class of indecencies to the correction of public opinion. I have been led to this inclination of mind (for as yet I have formed no decision) from the examination of the particular acts which in practise have been brought under the purview of this branch of criminal jurisprudence.

In the absence of anything like principle or definition, I was obliged to have recourse not only to precedent, but to the books of precedents; and they strongly reminded me of some forms which I have seen in Catholic church books, of questions which are to be put to the penitent by the professor, in which every abomination that could enter into the imagination of a monk is detailed, in order to keep the mind of a girl of fifteen free from pollution!

Turn to any indictment of this kind in the books, for the publication of obscene books or prints, or for indecency of behavior, and you will find the innuendoes and exposition of the offense infinitely more indecorous, more open violation of decency, than any of the works they are intended to punish and repress.

The evidence must be of the same nature, and hundreds will hear the trial who never would have seen the book or print. This evil is inevitable, if such acts are punished by law.

There is another evil of no less magnitude, arising from the difficulty of defining the offense.

Use the general expression of the English law, and a fanatic judge, with a like-minded jury, will bring every harmless levity under the lash of the law.

Sculpture and painting will be banished for their nudities; poetry for the warmth of its its descriptions; and music, if it excite any forbidden passion, will scarcely escape.

On the whole, I am surrounded by difficulties. Help me to a definition that shall include what ought to be punished, and not give room for the abuse I have pointed out.

Let me know how I shall decently accuse and try a man for indecency; or else fortify me in my opinion of letting public opinion protect public morals.—Letter of Hon. Edw. Livingston, Secretary of State under President Jackson, to Duponceau, a famous lawyer of Philadelphia. "Life of Edw. Livingston," by Charles Havens Hunt, page 289, New York, 1864.

THE CASE OF MOSES HARMAN

No doubt the postal authorities think they are doing the community a service in trying to suppress a paper that advocates objectionable doctrines. We agree that some of *Lucifer's* doctrines are highly objectionable; but it is a thousand times more objectionable that the right of free discussion should be denied to any opinions however erroneous.—*Woman's Journal*, of Boston, March 17, 1906.

The one refuge left in the world for unbridled license is the married state. That is the shameful explanation of the fact that a journal has just been confiscated and its editor imprisoned in America for urging that a married woman should be protected from domestic molestation

when childbearing. Had that man filled his paper with aphrodisiac pictures and aphrodisiac stories of duly engaged couples, he would now be a prosperous, respected citizen.—George B. Shaw in New York *Times*, September 26, 1905.

The assault on the freedom of the press and of the mails, involved in the persecution of Moses Harman, editor of *Lucifer*, Chicago, reached another stage on March 1st, when Mr. Harman was sent to the penitentiary at Joliet to serve a year's imprisonment. If such things can be done under the shadow of the American eagle, the ægis of the constitution, and the protection of the Stars and Stripes, why does our department of state trouble itself about tyranny and oppression in the Old World?—*Truth Seeker*, New York, 1906.

Have these obnoxious laws repealed. It is not Moses Harman alone, not the cause of woman's freedom, but the rights of humanity that are at stake. Free speech, freedom of the press, personal freedom, the rights of labor—all are involved. This is not a struggle alone between Anthony Comstock and Moses Harman, but it is a struggle of the oppressed class against the ruling class for the right to life, liberty, and pursuit of happiness. Material interests are at stake, and the ruling class is wise enough to understand this and act accordingly. Let the ruled class also understand and act, or sink into greater slavery.—May Walden Kerr, in the *Chicago Socialist*.

Even if I disagreed entirely with the sentiment of *Lucifer* and its editor, I should feel it a duty to stand up for the rights of free speech. But believing as I do not only in the purity of thought and high purpose of Mr. Harman, but convinced of the shamefulness of the treatment accorded him, officially or otherwise, I shall be glad to have my protest recorded. There is nothing too sacred for serious discussion, and when questions relating to the sexes are treated with conviction and plain speech it is usually "lewd fellows of the baser sort" who throw up their hands in holy horror. I shall be glad to receive and read the paper.—William Lloyd Garrison, Lexington, Mass., February 28, 1906.

Ed. W. Chamberlain, My Dear Sir: Your favor of the 6th inst. reached me here and I have just concluded reading the account of the infamous persecution of Moses Harman [convicted of obscenity]. The recital is so full of cruel, heartless outrages as to arouse all one's indignation and resentment. I may be able to lend a helping hand a little later and you may count on me to do my part. If such crimes against justice and humanity are permitted to go unrebuked, the conclusion must be that the world is not fit for a gentlemen of heart and intellect such as Mr.

Harman to live in. There are enough good people but they are asleep and must be reached and aroused.—Eugene V. Debs.

The post office authorities are doubtless performing a public service in depriving swindlers of the use of the mails, but it is intrusting them with a degree of power which may some day be abused, says a contemporary. Not only may it "some day be abused," but it is abused now. The post office censorship, intended to apply to those fraudulently using the mails, has become a most damnable tyranny. It is a constant menace to a free press and personal liberty.

We have in mind, as we write, Moses Harman, editor of *Lucifer*, who is serving a term in the Illinois penitentiary because he published articles in his little paper which petty postal officials thought "obscene." They were republished by many influential journals, whose editors were not molested. Yet there is not a purer-minded man, with a cleaner life, in the whole land, than Moses Harman, convicted felon, aged seventy-five. —*The Star*, San Francisco, Cal., 1906.

The home should be the heaven of our earthly existence. It should be the ulimate outcome of every normal human life. Within its sphere should be realized all the exquisite outcome of every normal human life. Within its sphere should be realized all the exquisite anticipations of our early dreams. It must be admitted that the hard, cold, stern realism of the average home life does not fulfil our anticipations. These results have come about because of prudery, because men blindly enter the realms of home life. Comstockery is to blame for marital unhappiness. It is this vicious nastiness that has allowed men and women to mate in ignorance of all the laws appertaining to this relation. Moses Harman, now seventy-five years of age, shows by his features and fine head of white hair that his life has been clean and wholesome, and whatever his theories may be or have been, I do not believe they will do otherwise than make the home ties stronger and more permanent. It is to be hoped that his imprisonment will help to call the attention of the public to the need of a mighty reform relative to these vastly important subjects.—*Physical Culture.*

To-day a man may deliberately murder his wife by a series of exactions and wrongs; he may bring to his own home diseases as the result of his own impure life, and deliberately infect his own wife with a disease which is now annually sending many thousands of women to the operating table for surgical treatment of the most serious nature and which is causing the death of thousands of pure, innocent and unsuspicious wives, and yet the law makes it a crime for the physician who treats the husband to warn the wife by a single suggestion, adjudges

the husband as acting within his marital rights, and even here in Chicago send a man to the penitentiary for a series of years who dares to call public attention in printed form to such a fact. . . . The law as it now stands, if logically enforced, would brand the Bible as an obscene book, scarcely a single person in this convention could escape the penitentiary, and Jesus himself, if he came to Chicago or New York could be arrested and successfully imprisoned. . . . No wonder that the statue of Justice holding the scales in one hand is represented as totally blinded by a bandage which covers both eyes.—Rev. Sylvanus Stall in *The Light*, January, 1907.

Very few will disagree with Mr. Harman's premises, while very many will disagree with his theories and conclusions. But by no law under heaven has any man in the United States of America the shadow of a right to say Mr. Harman shall not express his opinion, without molestation. The spirit of the American people is dead within them if they submit to such an outrage. Then any opinion on any subject that a mail clerk does n't know the alphabet about may be suppressed according to his limited knowledge of obscenity or heresy. It was mere heresy in Mr. Harman's case. The mail-bag censor said to him, "Your ideas would overturn society," therefore you shall be shut up in a prison cell for one year, and the department acquiesced. . . .

But the point is, Shall a man, guiltless of any crime, be railroaded to the penitentiary by government clerks acting as censors? The air of the dictatorship that vitiates Washington is poison to liberty and democracy. A storm of protest should be raised that will shake the walls of the capitol, if this be necessary, to restore one falsely imprisoned man to freedom.

The menace of graft and greed is not so threatening to the safety of the republic as this exercise of arbitrary and unwarranted power. . . . Moses Harman is fighting *Freedom's* fight—a fight for womanhood and manhood. *Help* him and his holy cause, not only with "words of praise and comfort," but in deeds. *Help* by giving according to your means, to a grand old man who, in durance vile, cannot help himself.—*The Star*, San Francisco.

Such men as Harman, [who has been several times convicted of "obscenity,"] born to serve, must go to jail, to the rack, and the scaffold. This has always been so and always will, so long as a large majority of mankind are subject to the will of a small minority—so long as the world is ruled by ignorance and superstition.

To shed light has always been a crime, for the simple reason that light is a menace to the rule of darkness. If Moses Harman had shed as much blood as he has light he would be honored as some great con-

queror, and instead of lying in a prison pen in the sunset of his life he would be fêted as a popular idol and his statue would adorn the parks of the cities. Better a thousand times this pure man in the stripes of a felon than an apostate in purple and fine linen.

It is the very irony of fate that this apostle of purity should be punished for alleged impurity; that the gross and sensual in our sex life and social relations, so abhorrent to his refined and sensitive nature, and against which he has waged unceasing war, should have sufficient power to so distort his features as to have him appear the author of their being. The vulgar, ignorant censors of Moses Harman have no conception of his real mission; he is as great as they are small, and is destined to live as nobly as they are doomed to perish ignominiously.

From Jesus Christ to Moses Harman the fate of all true men has been the same; from Calvary to Joliet not one has escaped. . . .

Full opportunity for full development is the inalienable right of all. He who denies it is a tyrant; he who does not demand it is a coward; he who is indifferent to it is a slave; he who does not desire it is dead.—Eugene V. Debs.

The incarceration of Moses Harman in a federal penitentiary, serving a year's sentence for sending objectionable matter through the mails, is one of the obscure martyrdoms which occasionally disgrace our boasted freedom. One of the articles for which he was sentenced was a reprint from the *Woman's Journal*, and was an editorial written by Alice Stone Blackwell. This fact alone should show the utterly unwarranted character of the charge. The other article condemned was written by a woman of seventy. Both these articles aimed to point out the cruelties and immoralities possible under the supposed license of legal family relations

It is altogether outrageous that a fine old grandfather should be serving a prison sentence for printing in his paper the words of honorable women which he believes to be needed for the uplifting of human conditions. The general ideas advocated in the paper published by Mr. Harman are not under discussion. It was not for his philosophical or governmental theories he was condemned. No laws prevent a man from airing impracticable and erratic notions. He was condemned for giving publicity to most important educational discussion upon subjects that affect the very foundation of human welfare. To say that such discussion is always, and however expressed, a crime, is an insult to the intelligence of all earnest citizens.

The wrongs committed under the cloak of the postal laws are growing more numerous and glaring. A censorship which makes it a crime to enlighten the people on matters which pure-minded and thoughtful people regard as crucially important, is an outrage not to be tolerated under forms of law among a free people.—Denver *Times*.

THE CASE OF D. M. BENNETT

The Bennett-Comstock trial was unsavory in many respects. But it involves the right to print, publish, sell and circulate through the mails matter which is no more offensive to good taste, and no more objectionable on the score of morals, than passages in Shakespeare and the Bible. It is fast becoming the general opinion that Comstock is doing more harm than good by a zeal that is not according to knowledge, and officious meddling with private and public rights.—*Evening Express.*

This case [of Bennett arrested for obscenity] will be interesting and important because it will tend to show how far the censorship of Mr. Anthony Comstock can legally be carried, and it may be the means of showing, also, to what responsibility, if to any, Mr. Anthony Comstock can be held for a misuse of his power. That this power is dangerously vague and elastic has been often shown in its unquestioned exercise. It has also been shown that it was conferred upon Mr. Comstock by methods very like those by which a power almost as arbitrary and as irresponsible has been conferred upon Mr. John Davenport. We presume there is not much doubt among sensible people that if such a power is to be conferred upon anybody, Mr. Anthony Comstock is not absolutely the most proper person in the world to be clothed with it, and that a dangerous power does not cease to be dangerous because it is put in motion at present against only long-haired and empty-headed persons.—New York *World*, March 19, 1879.

To our mind, the week ending March 22d [1879] has been made memorable in the history of this country as one of the periods in time which will be looked back upon by posterity as indexes of the narrowness of sentiment and proneness to oppression which characterize the present generation. Whatever views any one may entertain concerning Mr. Bennett's belief or his course of action, it is a fact that *he* is firmly convinced that he is right, and as no law has yet been put upon the statute books of the United States avowedly making the expression of any man's honest conviction—published or otherwise—a crime, we submit that it is a breach of all the proprieties (to say nothing of the principles of justice) to make use of the ordinance in question to crush out such works as may fail to square with popular, religious, and other standards. This, however, stripped of all the confusing generalities which may be grouped around it, is plainly the course pursued and the result sought to be arrived at in the trial just closed.—*Banner of Light*, March 29, 1879.

While we boast of our freedom and claim for ourselves the widest range of opinion on all subjects, we are practically subjected to a des-

potism from sectarian interference that is perfectly intolerable. The latest instance of this reaches us from New York, where D. M. Bennett was prosecuted by that Christian and s——l, Anthony Comstock, for sending, as it was claimed, obscene literature through the mails. Comstock had mailed an order, under an assumed name, for a book Bennett had published [not published, but sold], to popularize certain opinions concerning the marriage tie.

The worst feature of this wretched business is that Congress has sanctioned by law a tampering with mails on the part of this charlatan that is fatal to the postal service.

This is all uncalled-for—a melancholy farce. There is law enough on the statute books of the states to arrest the circulation of obscene literature without invading the mails. The trouble is that these laws are not enforced, and while such prosecutions are neglected, a great noise, with the smallest results, is indulged in to give this very unnecessary individual a national notoriety.—Washington *Capitol.*

My Dear Sir: I was astonished on hearing the verdict in the case of Mr. Bennett, notwithstanding the strange and seemingly perverse rulings of the judge, who calls to mind the judicial proceedings of the time of Charles II. The inference is irresistible that the offense charged is a mere pretext. He is prosecuted because he is zealous for his religion, which happens to be odious to a considerable number of influential fellow-citizens. His religion is to assist his countrymen to free themselves from superstitions which are poisoning virtue at its source. His methods are, indeed, of the rough-and-ready kind, but I am sure his purpose is high and good.

I never [before] in my life read a pamphlet so disagreeable to me as that "Cupid's Yokes," which Mr. Comstock is advertising so effectively at the expense of the public. But it is plain that the author in writing it was within his right as the citizen of a free country. He merely handled without skill, and with very insufficient knowledge, and too hastily, a topic which can be adequately treated only by men of vast science and profound, far-seeing prudence. But he had a right to attempt it, and, if he had been let alone, the attempt would long ago have been forgotten. I still trust in Mr. Bennett's escape from the toils of his enemies.—James Parton.

An editorial in the *World*, commenting on the letter of one of the jurors, which it published simultaneously with the *Herald* and *Volks Zeitung:*

The letter which is sent us by Mr. Valentine, the dissenting juror in the case of Bennett, deserves careful consideration. The questions involved in that trial were very serious. A writer who advocates unpopular opinions on important subjects is liable to be made the victim of legal

prosecution unless his legal rights are protected with the utmost care. That his opinions are foolish and his manner of expressing them gross and offensive, does not affect his right to utter them unless he clearly oversteps the limits of the statute. In this case Judge Benedict made a decision surprising to laymen in ruling that the context of the phrases quoted and relied upon in the indictment should not be read to the jury. Some of the noblest books in our language could be so garbled by a selection of phrases as to bring them within the prohibition of the statute. Judge Benedict's definition of the offense, concerning which the jury was required to find, had the misfortune of being so vague as to be almost worthless, and required a judicial construction from the jury. The tendency of Federal judges since the war has been to usurp the functions of the jury. Whether Judge Benedict has yielded to this temptation or not, there is food for reflection in Mr. Valentine's remark that, if the jury had been left to construe and apply the statute, Bennett would not have been convicted.

Mr. Anthony Comstock has been granted by a stupid Legislature powers with which he should never have been trusted, simply because he is not intellectually and morally competent to use them aright. In the wholesale slaughter that he has made among the venders of what he calls obscene literature, it was inevitable that he should do some good and be the instrument of sending to prison men who do less harm there than they would do anywhere else. But it is an outrage upon individual and social rights that he should be permitted to assail with impunity men whose lives, taking them as a whole, are mainly in the right, and who, by stimulating thought on important sexual questions, accomplish incalculably more good than Mr. Comstock, with his ferret-like propensities, can hope to accomplish.

We live in an age when all important subjects are being excavated to their very foundation. Progress cannot afford to be squeamish. No honest man dare shrink from any fact that introspection or the analysis of physical, mental, and moral nature reveals to him. The whole civilized world is now networked with arguments which a few years ago would have been muffled shamefacedly in silence. To-day the only ones who ought to be shamefaced are those who dare not or will not think and speak for themselves. Men like Mr. D. M. Bennett, though we by no means espouse the peculiar tenets of him and his abettors, do not work in order to deprave mankind; and should any one be punished, it is those who unjustly seek to secure his chastisement.—*Evening Telegram*, March 24, 1879.

Mr. Bennett's trial has been going on since Tuesday before Judge Benedict in the United States Circuit Court in New York. There was

one thing about the trial which characterizes nearly all cases in which men and women of liberal ideas are interested, and that was the intense bigotry manifested by the Judge. The only evidence which the Judge permitted to be given was on the side of the prosecution. Every point raised by the defense, every question asked that would mitigate the alleged offense in the eyes of the jurymen, every effort to strengthen the defendant's position, was peremptorily "ruled out" by Judge Benedict. If the daily reports of the New York *Herald* were anything like the truth, the whole proceeding was a farce, and the case one of clear persecution. The trial was characterized by the same spirit that ruled in the case of the Government against Susan B. Anthony for offering to vote, and was like nearly all endeavors to enforce cruel laws against individual liberty and the freedom of conscience. Talk about justice in a court of law! The courts in many cases are nothing but the instruments for enforcing popular prejudices. Instead of being used to protect the weak against the strong, to guard the few from the oppressions of the many, to defend the poor from the power of the rich, encourage free thought, free speech, free press, and personal liberty—instead of doing this, they are the weapons used by wealth, by power, by "popular opinion," by bigotry, to suppress innovation—the only means of advancement—and to keep the world in darkness. This is the mission of many courts of justice (?) and if they ever had a different use they have outlived them by years.—Port Jarvis, N. Y., *Evening Gazette*, March 22, 1879.

Mr. Alfred A. Valentine, one of the jurors in the Comstock-Bennett case, has published a card explaining why, after maintaining Bennett's innocence fifteen hours, he finally voted for his conviction. The jury had been charged to follow strictly and only the definitions of Judge Benedict. And the judge had declared that the "*test*" of indecency and lewdness in a publication is its "tendency to deprave and corrupt the morals of those whose minds are open to such influence and into whose hands such a publication may fall"; "its tendency to excite lustful thoughts." It is obvious, of course, that on such a definition there was no alternative but to convict Bennett. On such a definition the publisher of the works of Moliere, Rabelais, Boccaccio, Chaucer, and Skakespere could be convicted. There is no question that passages can be culled out of the Bible which in themselves have "a tendency" to excite improper feelings. Admit the doctrine laid down by Judge Benedict, and half the literature of the world goes under ban. This "tendency" dictum is sheer usurpation, the putting a gloss on the law which is not in the law, and does not belong there. It is extra-judicial, and an encroachment on the freedom of utterance and publication. We say this all the more emphatically because we utterly condemn the stupid book on which the trial was based. We have no sympathy

whatever with its notions, nor with the teachings of Heywood and his school. But we protest against advertising their publications by unjustly persecuting them, and against any encroachment on the fullest liberty of utterance under the law. We do not live under a "tendency," but under law.—New York *Evening Express*, March 27th, 1879.

There is a society in this city organized for the suppression of vice. The spirit and purpose of this society I take to be honestly and simply this: To suppress vice, to keep down the elements that are perpetually demoralizing and rooting out the best seeds of human nature. With the methods by which this society hopes to achieve these results, I have no sympathy whatever. Indeed, I protest with all my heart against some of the methods which they conspicuously employ. . . . If the higher powers are to subdue the lower, it must be by open and honorable warfare. It is of their essence that they are dignified, elevated, and pure, taking every advantage which nobleness gives, scorning all advantage which only baseness allows. . . . Again I protest with all my might against the inquisition into the mail service of the United States. If there must be one thing upon which a free people must plant themselves firmly, never to be moved, it is this principle that there must be no tampering with the mails, and that whatever is deposited in the mails must go to its destination. Let the harm be checked on the spot where it falls. If the injury is done, let it be repaired where it is done: not on the way, not after it has started. Meet it where it occurs. . . . Again, what honorable, high-minded soul does not blush with indignation when he sees the confusion that is made by people who insist upon it that liberty of thought, freedom of speculation, freedom of speech, involves license of conduct, and when war is openly made upon free-thinking on the ground that in that very movement and by that very process war is made against licentious doing. The two things are not only different, but absolutely and forever hostile one to the other, and when that society adopts such methods as it commonly does, methods of confusion, then it is difficult even to make allowance for the spirit with which the association works, and not doubt the heart of that society, —Rev. O. B. Frothingham, delivered March 3, 1878.

Freedom's battles must be fought, many times, in each generation, We may be in the greatest danger when feeling most secure in our rights. We recall a passage in the speech of Stephen Pearl Andrews, in the year 1880, at the reception to D. M. Bennett, the founder of this paper, on his liberation from prison, where the exercise of the right of a free press had brought him. Mr. Andrews said: "We have gone back since the days of the antislavery war as we went back naturally and necessarily between the Declaration of Independence and the antislavery war.

When there is not some aggression on hand; when men are not aroused to think; when a new generation of people arise that have not been indoctrinated, we are always to expect that there will be a receding from the advanced position which our highest doctrine announces. We must be on the alert to watch for such conditions as this, and we are now in that condition exactly—that we have become so secure, in the possession of our freedom, that we did not anticipate that any invasion of it was to come from any source whatever; and the community at large is not as yet aroused to the fact that any such aggression, any such conspiracy against the freedom of the American people, has been devised and partially executed as that which has sent that man to prison to wear prison clothes and to work at hard labor under the severest discipline for one year." The experience of Bennett taught the Liberals who were in the fight that appearances are never to be trusted—that boasting of free speech and free press does not prove that we have them. It taught us the truth of the words of Andrews, that in a generation of people not indoctrinated with liberty by being called upon to vindicate it, but who rely upon the "heritage" of the fathers, aggression may spring up and succeed and the community remain indifferent. It drove from our mind forever the delusion that liberty can be inherited. The fathers transmitted the principle and the example; the achievement we must win, each generation for itself. The love of liberty is an acquired trait, and among the first to be lost; aggression comes to us from the beasts, and is hard to eliminate. We may be so far from the scene of aggression as not even to hear of it, but we may be sure that it is perpetually doing its work, and that there is never a time when the soldier of liberty can with safety abandon the field. The cry of Peace, peace, when there is no peace, is not so disastrously misleading as the cry of Victory in the same circumstances.—*The Truth Seeker*, August 7, 1909.

Comstock has seized the crank and given it another twist. Upon the issue of the last number of *The Truth Seeker*, he in person, and in his official capacity of active inquisitor, visited the manager of the American News Company with a copy of our paper in his hand, and by his arrogant, intimidating manner bulldozed the manager to the extent of preventing the News Companies of the city handling *The Truth Seeker*, as for years has been their habit. This self-constituted censor of the American press asserted that *The Truth Seeker* is an immoral paper, and that the books which are advertised in its columns are immoral publications, the sale of which ought to be prohibited. He said the columns of the paper contain matter which the courts have decided to be indecent, and that those who sell the paper, and especially those who by any chance send it by mail, run the risk of prosecution in the United States courts. . . .

If he can suppress our publications because the paper contains ac-

curate reports of a trial held in one of the highest courts of our country, giving the evidence and the arguments delivered in the presence of numerous ladies and gentlemen, he may soon make demonstrations upon the daily papers, which publish in full such trials as the Oliver-Cameron breach of promise case, the Vanderbilt will case, the Beecher-Tilton adultery case, and many other similar cases, in either of which was far more that is offensive to decency and refinement than anything which was brought out in our trial before Judge Benedict. If he can suppress our publications because he decides them to be immoral inasmuch as they oppose the divinity of the Christian system of religion, he may soon take courage enough to attack such houses as D. Appleton & Co., Harper Brothers, J. B. Lippincott & Co., G. W. Carleton & Co., Putnam's Sons, and others, which publish such works as Darwin's, Huxley's, Spencer's, Mill's, Haeckel's, Schmidt's, Prof. Draper's, Strauss', Buechner's, Jaccolliot's, Chadwick's, Frothingham's, Sutherland's, and many others, whose writings are quite as damaging to the prevailing system of religion as anything that has emanated from our press, which all appeal to the intelligence of men and women rather than to their superstitions and prejudices. . . . The very fact that Comstock was able to boast, and in Judge Benedict's own court-room, and immediately after the retirement of the jury in our case, that he "never lost a case in that court," that he could "always count on a conviction before Judge Benedict," would make us wish to be tried before any other judge, and the same fact would cause us to wish that he would not one of the three Judges to review and decide upon the case.—*The Truth Seeker*, 1879.

[This letter of Juror Valentine is of more than ordinary importance, for it shows us in the making some of the first links in the chain forged for "obscenity" juries. Judge Foster completed the chain by adding the ring and padlock in the Craddock case. S.]

SIR: The newspaper reports of the trial of Mr. D. M. Bennett for mailing "Cupid's Yokes" seems to make a few words of explanation on my part necessary. . . . After the jury retired for deliberation, there was doubt about the meaning of those words upon which the whole case hung. We had been charged to follow strictly and only the definitions of the Judge (Hon. Charles L. Benedict), and accordingly we sent to him for them and received them in these words, which I copied at the time (the italics are mine):

"The *test of obscenity* is whether the *tendency* of the matter is to deprave and corrupt the morals of those whose minds are *open* to such influences and into whose hands a publication of this sort *may* fall.

" 'Lewd' means a *tendency* to excite lustful thoughts.

"Passages are *indecent* within the meaning of the statute if they con-

tain obscenity, that is to say, matter having *that form* of indecency which is *calculated* to promote the general corruption of morals."

These definitions were so broad and uncertain that it seemed to me they might be used to condemn a very large, and perhaps the larger part of the literature of the country, as well as the isolated passages that had been picked out of "Cupid's Yokes." I say isolated passages, for the Court did not allow the whole book to come in evidence before us, although we each had a copy of it in the jury-room. I felt, and I still feel, that these definitions carry the statue much further than Congress ever intended, or a fair application of it would warrant.

The pamphlet in question seems to be immoral from our ordinary point of view, but not obscene within the strict meaning of the statute, although the isolated passages selected might, standing by themselves, come under the definitions of the Judge. I wished, therefore, to maintain the right of the author, Mr. Heywood, and of those who agree with him, to differ with me.

Under these convictions I hesitated to do what seemed an act of wrong and injustice to Mr. Bennett (of whom I had no knowledge whatever), but I could not violate my oath nor disobey the instructions of the Court. I could only express my conviction by withholding my concurrence for a reasonable time--about fifteen hours; then I gave it with a protest and as a means to obtain a less sweeping construction of this statute upon appeal or a change of it by those who made it. Had the jurors been left to construe and apply it Mr. Bennett would never have been convicted. Yours very respectfully,

Alfred A. Valentine.

No. 233 Broadway, March 24, 1879.

If anything were needed to confirm our original judgment about Mr. Bennett's prosecution, the above card of Mr. Valentine is just that thing. Particularly weighty is that part of it which points out that not the character of the *whole* book but only certain isolated passages of it were passed upon. How appropriate is the remark of Mr. Valentine, that measured by that "test" the greater part of literature must be condemned! In fact, what would become of Goethe, Schiller, Shakespere, Byron and similar *unimportant* (?) authors? Above all, what would become of the Bible if we should take therefrom single sentences and words, and upon them found a judgment upon the moral or immoral character (or tendency) of these writings. O! Ye Pharisees and Hypocrites!—New York *Volks Zeitung*, March 27, 1879.

The trial was an infamously one-sided affair, the judge being an enemy to Freethought and apparently determined to convict the prisoner and punish an Infidel by fair means if convenient, by foul means if necessary.

He refused to admit the testimony of such men as O. B. Frothingham, Elizur Wright, and Oliver Johnson to prove that the book was not obscene. . . . The court held that the good object of the writer of the book was not a matter to be taken into consideration. The jury were to consider "whether the tendency of the matter was to deprave or corrupt the morals of those whose minds are open to such influences and into whose hands publications of this sort may fall."

On this principle a jury of Infidels might find every Christian publisher in the land a fit subject for the law's vengeance, and a Christian jury might cause to be fined and imprisoned every Infidel publisher, or a jury of Prohibitionists every advertiser of intoxicating liquors, or a jury of vegetarians every publisher who dared to advertise the virtues of meat, and so on through an endless category. Catholic might punish Protestant and vice versa, it being not a matter of right but of might in all these cases. Whether or not the tendency of a book is to "deprave and corrupt the morals" is a matter of mere opinion susceptible of no proof whatever. Every reformatory document has a tendency to "corrupt the morals," if we are to take the opinion of those who are opposed to reform, and they are generally in the majority. The abominable ruling of Judge Benedict in Bennett's case would muzzle the press of the Democratic party throughout the United States during Republican ascendancy, and vice versa. Not an abolition paper could have been tolerated under it. Every Greenback journal might be silenced. Liberty of speech and press is a miserable farce if law sanctions the punishment of a man for sending through the mails, not matter that has corrupted anybody's morals, but matter that in the opinion of a probable set of bigots and ignoramuses, may possibly tend at some future time to corrupt the morals of some imaginary human being!

This outrage upon Bennett and liberty is perhaps the opening of a Y. M. C. A. plot to root out "heresy" and establish the pet Christian God and his lackeys in power over a people heretofore superior to either or both. At any rate, every friend of freedom ought to make Bennett's case his own at once and aid him by voice and pen, ballot and pocket-book, in maintaining in this struggle that great pioneer of truth, conqueror for justice, and guardian of liberty, which all bigots and tyrants and "heaven-ordained" public beggars and pilferers, with good reason fear and detest—the right of free speech.

Bennett has taken an appeal, but if not successful we shall soon hear of him in his honorable old age as an occupant of a felon's cell—not there for any deed of dishonesty, or for lawfully cheating his creditors, or for oppressing the poor, or for injuring his fellow-man in any way, but for simply sending through the mails a book which, in the opinion of less than a dozen incompetent men, may have a tendency to corrupt the morals of some person or persons, the existence of whom is neither known nor

specified. If this is the beginning, what may we expect in the end from the Comstock "morality" mill, and the Y. M. C. A. who grind it?—Winstead (Conn.) *Press*, March 27, 1879.

I am very pleased to hear of the establishment of the Free Speech League and I trust it will have wide influence and do much good. It is sad to hear that in the United States, of all countries, such a League should have any function to perform. Some of the examples you narrate are scarcely credible. I have, for instance, read the first edition of Warren's "Almost Fourteen," and it is so admirable in tone, so delicate and reticent, almost to a fault, that one scarcely knows what to think of the mental state of the people who could adjudge it to be "obscene."

It seems to me that there can be no doubt whatever regarding the soundness of your view of "obscenity" as residing exclusively, not in the thing contemplated, but in the mind of the contemplating person. The case has lately been reported of a young schoolmaster, who always felt tempted to commit a criminal assault by the sight of a boy in knickerbockers: that for him was an "obscene" sight—must we therefore conclude that all boys in knickerbockers shall be forcibly suppressed as "obscene."?—Dr. Havelock Ellis, in a private letter.

SECTION VII.

LIBERTY OF CONSCIENCE AND SPEECH FOR ANARCHISTS

We trust that no attempt will be made to suppress Anarchist literature. No doubt it does some harm, but still greater harm would be done by closing the safety valve. A man who is not allowed to kill kings and ministers with ink is more, not less, likely to try to murder them with dynamite.—*The Spectator.*

I treat with scorn the puny and pitiful assertion that grievances are not to be complained of, that our redress is not to be agitated; for in such cases, remonstrance cannot be too strong, agitation cannot be too violent, to show to the world with what injustice our fair claims are met and under what tyranny the people suffer.—Daniel O'Connell.

A mercenary informer [member of spy societies] knows no distinction. Under such a system [as tolerates thus association] the obnoxious people are slaves, not only to the government, but they live at the mercy of every individual; they are at once the slaves of the whole community and of every part of it; and the worst and most unmerciful men are those on whose goodness they must depend.—Author not known to editor.

If any person, void of modesty and shame, shall think our name is to be abused by insolent reproach, and be wantonly a turbulent disparager of the times, we will not have him subjected to punishment, nor sustain any hardship or severity, because if it hath proceeded from levity it is to be contemned; if from insanity, most worthy of compassion; if from injury, it is to be pardoned.—Decree of Emperor Theodosius.

Of all the miserable, unprofitable, inglorious wars in the world is the war against words. Let men say just what they like. Let them propose to cut every throat and burn every house—if so they like it. We have nothing to do with a man's words or a man's thoughts, except to put against them better words or better thoughts, and so to win in the great moral and intellectual duel that is always going on, and on which all progress depends.—Hon. Auberon Herbert, Westminster *Gazette*, Nov. 22, 1893.

I am not a citizen of America, England, or Germany. I am a citizen of that country in which a man is permitted to advocate any religion, or no religion—Catholicism or Atheism; where a man is permitted to preach in favor of absolute government or no government—Autocracy or Anarchy; where a man may express himself in favor of any marriage

system, or no marriage system—Monogomy or Variety. I am a citizen of that country where ideas are not branded as crimes; where thought is not chained behind prison bars; where freedom is a fact, not a fiction; where Social Ostracism is not the fate of those who really think. Where is this Country, and what is its name? O, this Country is far, far away, and its name is *The Future!*—Victor Robinsoll.

Every new truth which has ever been propounded has, for a time, caused mischief; it has produced discomfort, and often unhappiness. sometimes by disturbing social or religious arrangements, and sometimes merely by the disruption of old and cherished associations of thoughts. It is only after a certain interval, and when the frame-work of affairs has adjusted itself to the new truth, that its good effects preponderate; and the preponderance continues to increase, until, at length, the truth causes nothing but good. But, at the outset, there is always harm. And if the truth is very great as well as very new, the harm is serious. Men are made uneasy; they flinch; they cannot bear the sudden light; a general restlessness supervenes; the face of society is disturbed, or perhaps convulsed; old interests and old beliefs have been destroyed before new ones have been created. These symptoms are the precursors of revolution; they have preceded all the great changes through which the world has passed.—Buckle, "History of Civilization."

A proposition to forbid and punish the teaching or the propagation of the doctrine of Anarchism, *i. e.*, the doctrine or belief that all established government is wrongful and pernicious and should be destroyed, is inconsistent with the freedom of speech and press, unless carefully confined to cases of solicitation of crime, which will be discussed presently. As the freedom of religion would have no meaning without the liberty of attacking all religion, so the freedom of political discussion is merely a phrase if it must stop short of questioning the fundamental ideas of politics, law, and government. Otherwise every government is justified in drawing the line of free discussion at those principles or institutions which it deems essential to its perpetuation—a view to which the Russian government would subscribe. It is of the essence of political liberty that it may create disaffection or other inconvenience to the existing government, otherwise there would be no merit in tolerating it. This toleration, however, like all toleration, is based not upon generosity but on sound policy; on the consideration, namely, that ideas are not suppressed by suppressing their free and public discussion, and that such discussion alone can render them harmless and remove the cause for illegality by giving hope of their realization by lawful means.—Prof. Ernst Freund of the University of Chicago, in "Police Power," page 475.

The Anarchist will not cease to be a danger—(one of many, many dangers)—until we set up healthy ideals in the market-place, in Wall Street, and at Washington. We need not preach love for neighbor—that is, perhaps, asking too much; but we ought to insist, at least, upon a wholesome regard for his rights. It has been suggested that we now love him too much like the traditional lover—we love the very ground he treads upon—which is a good enough reason for taking it from under his feet. We should respect his liberties, and, as we need love him only as ourselves, we should respect our own liberties too. It is hard to preserve liberty in a land where the money-bag is supreme and where it can count upon the mailed hand of war to carry out its behests. And yet freedom was our first love and in our younger and healthier days the love of it coursed in our veins. All liberty involves a risk, but then it is often a risk worth taking. And all repression involves risks too, and these risks are so much less noble and alluring! Freedom presupposes strength and courage, but we are becoming cowardly in our old age, and are afraid to allow men to land upon our shores who dare to "disbelieve" in our institutions or to criticise them.

It is, perhaps, unlikely that we should soon return to our old-time devotion to freedom. So be it. But, in that case, let us stop talking about it. Let us clear ourselves of cant and cease to be hypocrites. Let us take down the beautiful statue of "Liberty Enlightening the World," that brazen lie, which now casts its beams upon Ellis Island and its prison, and let us put up in its place an ogre of iron, grasping a gnarled and knotted club, and casting its baneful shadow upon the immigrant,—an image no longer of Liberty Enlightening, but of Despotism Darkening, the World.—Ex-Judge Ernest Crosby in *North American Review*, 1904.

If the American theory of social organization is sound; that is, if reason is to be the determining factor in ordering our associative life, then they are most unwise who favor, even if only by apology after the fact, the "removal" of chosen chiefs of state; and they are equally unwise who endeavor by force to suppress expressions of discontent, even if this discontent sometimes foolishly voices itself as sympathy for or approval of unfortunate unbalanced assassins. The surest way to weaken the influence and power of a tyrannous official is to let in the light upon his actions. To kill him is to rally his party and the overwhelming majority of all other parties to avenge his death. The surest way to prevent incendiary utterances is to let folks talk. On the one side, do not throw in too much fuel, raising the steam above the danger-point; and on the other side, do not sit on the safety-valve.

The so-called "yellow" press of this and other cities has done vast harm by its sensationalism, its appeal to class feeling, to passion, to in-

discriminating hatred of what is; by its magnifying of relatively unimportant issues and its minimizing of vital questions; by its prying into private affairs and its sinister disregard of personal liberty and the salutary freedom of speech, press, and life. But is there a careful student of human nature and human history who for a moment thinks that evil would have been less had this most unsanitary press been subjected to a rigid official censorship? Are we not as certain as that we live that an attempt to muzzle these unwholesome sheets would have multiplied ten times the evil wrought by and through them? The very badness of their conduct has made the saner, more thoughtful, less invasive, even if "conservative," journals much more welcome to earnest men and women that they might have been had they not constantly been confronted and warned by these "horrible examples." The most nearly effective censor of the press is the press itself.—Edwin C. Walker, in "Liberty and Assassination."

Ah! do not hasten to say, This is a moral Malady! This, good or bad, this is human Thought. Do not put Thought in prison. It always escapes from it. Do not kill Thought; it always comes alive again.

See! it has been hanged on every gibbet, it has been nailed to every pillory; it has lighted up all the gibbets with its rays, it has illuminated all the pillories with the fire of its haloes.

It has been decapitated, burned, tortured, crucified! Within walls, very similar to ours, magistrates, clad in the same purple and capped with headgear like the Attorney-General's have crushed it beneath similar social thunderbolts, in similar murderous periods, droned in similar inflections of voice, timed by similar see-saw gestures; for, in the midst of evolutions, revolutions, cataclysms, when all things change and when all things crash together, immovable human justice, everlastingly victorious on the eve and always vanquished on the morrow, keeps the same pose and the same physiognomy!

The *Conciergerie* for Thought is the ante-chamber of the Pantheon! And the magistrates cannot go out without passing the statue of one of their victims.

They believe they could stifle Thought, but the Thought flashes forth.

Every day, at the corners of the crossways, in public places, the Etienne Dolets [a celebrated French printer and man of letters, burnt as a heretic, 1546], crowned with immortelles, smile in the morning splendors that greet the awakening of Paris!

Let Thought run its course, gentlemen; do not stop it. Defend yourselves; do not persecute.

Gentlemen, hear my last appeal; it cries to you from the depths of

my mind, with all the energy of my faith and my youth; Jurymen of the end of this century, do not persecute!—Jean Grave, the Anarchist, in his own defense on a charge for circulating literature denouncing the French army.

THE CASE OF JOHN TURNER

At a meeting of the Labor Council last night, the council adopted resolutions condemning as an outrage the arrest of John Turner, chief organizer of the Retail Clerks' Union of England and a member of the executive committee of the London Labor Council, for alleged disbelief in all government, and denouncing the threatened deportation of Mr. Turner as unconstitutional and repugnant to the spirit of liberty upon which this nation was founded.—San Francisco Labor Council.

The Central Federated Union of New York (composed of delegates from local trades unions), at its meeting on December 13, 1903, indorsed the resolutions which were adopted December 3d by the Cooper Union mass meeting, protesting "against so much of the Immigration Law as authorizes the exclusion and deportation of an alien solely because of his opinions" and voted its moral and financial support to the Free Speech League in its efforts to have that part of the law declared unconstitutional by the Supreme Court, or failing that to have it repealed by Congress.

The first attempt to enforce the anti-Anarchistic act, passed after the assassination of President McKinley, is not only ridiculous, but alarming to all who hold to American ideals of personal liberty. Turner has made no incendiary utterances in this country; he has not, in the words of the law, advocated the overthrow by force or violence of all or any organized government. When he preaches the gospel of Anarchy among us it would be time to deport him. To proscribe him because he may have written or talked elsewhere against the constituted authority may be legal; it certainly is repugnant to American ideals.—New York *Evening Post*, October 24, 1903.

My Dear Sir: Your letter of December 1st came to Washington while I was at home in Massachusetts, and has just reached me. It is too late to answer it in time for your purpose. I should have said, if I were to write a letter to be read at your meeting, that I should not approve any law or any construction of any law that excluded persons from the country merely because they disbelieved in all organized government, unless they also favored forcible resistance to all organized government. That should be clearly established, and should not be taken as established by anybody's deduction, as a matter of logic, from what the person who is under consideration avows as his belief. One of the greatest single

causes of religious persecution and intolerance is the imputing to other men opinions which they themselves disavow, but which their opponents charge them with because they seem to the opponents the logical deduction from what they say they think. I am not bound to accept or submit to what another man thinks the logical consequence of what I say or do. —U. S. Senator George F. Hoar, to Secretary Free Speech League.

It would be asorry state of affairs if there was no one left to protest against these occasional abuses of the Constitution, and it is of no consequence that the beneficiary of the outburst is in himself worthy of personal regard or not. . . .

Freedom of speech has its drawbacks and rebates, but the abandonment of the principle which supports it would be disastrous both to good government and free institutions. It is a passion with most men to desire to express their opinion. Very few of them meditate action as a consequence of their views. Having unloaded, as it were, they settle back in the knowledge that they have done their duty, and leave the rest to logic. The profoundly wise theory of this country has been to permit each man or set of men to discuss freely the faith which moves them, and the result has been in every case the ultimate establishment of a truth.

John Turner should be released with an apology and permitted to talk to his heart's content. He could not have worse luck than Prophet Dowie had.—New Haven, Conn., *Register*, December 5, 1903.

It is easy to say, "We want no Anarchists in this country," but the real question is whether by employing arbitrary methods to keep out one from abroad, we do not breed a hundred at home. Repression of free speech, unequal laws, tremendous and vague powers lodged in the hands of the authorities, have been the recognized means of producing Anarchists in foreign countries, and undoubtedly will be here, if adopted. The great trouble with the law under which it has been attempted to exclude the Englishman, Turner, is that it does not precisely define his offense. Criminal laws can strike only at acts. A "disbelief" is something impalpable. How are you going to handcuff a mental state? How can Secretary Cortelyou prevent a thought from crossing the Atlantic? The moment we permit magistrates or commissioners to begin reading crimes in what a man thinks, as distinct from what he says or does, that moment we imperil a government of ordered liberty. Let the authorities be as severe as possible with every crime, or incitement thereto; but let them beware of taking their own guesses at "belief" as proof of crime. No man is safe if the police may arrest for secret thoughts.—New York *Evening Post*, December 5, 1903.

Dear Mr. Pleydell: I shall be grateful to you if you will convey to the Free Speech League, as also to all those who have in any way assisted, my very high appreciation of their efforts on my behalf. But while I am quite unable to adequately express how I value their personal feeling of friendship, I am still more concerned that the whole force of public opinion shall be brought to bear, with a view to abrogating this law under which I was arrested and am now detained for deportation.

That is the question of principle to keep steadily in sight, and my personality is only incidental to it. Whether I am deported or not makes very little difference, but the safe and permanent establishment of this measure means the beginning of an era of attempted suppression of opinion, which would soon menace every minority in the United States.

What is there about America that can cause it to fear the ideal of one who in Great Britain and Ireland, France or Belgium, remained unmolested? Is the new democracy more fearful of opinions than the older European countries? I hope, for the credit of the United States, honest opinion will not be permanently barred out by ill-conceived legislation, and that lovers of liberty will not rest till they have again placed America among those liberal countries who do not use political discrimination against the stranger at their gates.—John Turner, to Cooper Union Meeting, December 3, 1903.

The mass meeting alone was enough to demonstrate that the enforcement of the clause of the law under which it is proposed to deport Mr. Turner is sure to propagate doctrines which the majority of people deem dangerous, rather than to repress or discourage them. We cannot afford to associate the principle of academic or philosophic Anarchy with the cause of free thought, because free thought is in itself enough to sanctify, in many persons' minds, the most repulsive heresies. Forbid by law the holding of certain beliefs and you will surely popularize those beliefs. The long struggle for intellectual liberty, from the Middle Ages down to the opening of the nineteenth century, stands for too much agony and sacrifice in human history to be repudiated in our own time. The principle won at such great cost cannot be attacked without arousing a violent protest, of which the Cooper Union meeting was but the first sign. . . .

The labor unions of America, to whose work and principles Mr. Turner has been devoted, might take up this affair to good advantage and press it upon the attention of Congress. . . .

The conclusion cannot be avoided that in prohibiting the presence in this country of men simply because they "disbelieve" in the government which exists in this stage of civilization, Congress acted without realizing the effect and bearing of its legislation. A man like Turner cannot be driven out of America, as Roger Williams was driven out of Massachu-

setts two and one-half centuries ago, without increasing his influence and importance a thousand-fold, and thus defeating the very purpose which Congress had chiefly in mind.—Springfield, Mass., *Republican*, December 6, 1903.

The law under which the immigration officials are holding John Turner a prisoner without bail, preparatory to deportation, was passed in a senseless panic, and is as stupid a piece of legislation as Congress has achieved for several years. Its unconstitutionality is obvious. The Supreme Court may, perhaps, say otherwise, but any law abridging freedom of thought and speech is in violation of the spirit of the Constitution, and no amount of legal sophistry can make it anything other than what it is.

This fool law essays to pry into the mind of a foreigner arriving at a port of the United States, and to judge him by what he believes or disbelieves. If he disbelieves in the wisdom of governments, says the law, he is dangerous and must be kept out of this peaceful, orderly land, lest he corrupt the minds of our simple people or run amuck and destroy the government.

Ostensibly the law was enacted to prevent the entrance of dangerous persons, revolutionary Anarchists, bomb-makers, and violent cranks generally. It was passed because the country was in hysterics over the killing of a President, all hands forgetting that every one of our assassins up to date was a native-born American. Of course, the law would be no barrier to a really dangerous conspirator who desired to get into the country with evil intent. It is a barrier to honest, open-minded men who say what they think and mean harm to nobody. It could be invoked to keep Herbert Spencer from setting foot on American soil.

The law making "disbelief" in anything a disqualification for admission to this country is contrary to the spirit of the Constitution. If government dictate political opinion, it can control religious belief. If it be permitted to deport John Turner because of his opinions—not his acts nor his character—there is no constitutional limit to the power of Congress over the speech and thought of the individual.

Besides, in applying the law to a man like Turner, who is an industrial organizer and a man of brains and character, this government is making a particularly conspicuous exhibition of folly, and, worse than being wrong, is being ridiculous.—New York *Daily News*, Dec mber 4, 1903.

If for no other reason than that it introduces a tyrannical method of procedure, abhorrent to the spirit of our institutions, the law ought not to stand. Its arbitrariness recalls that of the Fugitive Slave and the early Sedition laws. Its enforcement must inevitably be unequal. How is the Government to ascertain the truth about the hundreds of thousands

of aliens who come to the United States in the course of the prescribed three years period of limitation? Are all of them to be detained until the boards of inquisition shall have passed upon the orthodoxy of their political beliefs? If not, prosecution must necessarily be sporadic and taken against selected victims; and such selections would usually be influenced either by the malice of informers or by the whims of the inquisitors.

And how are the beliefs of men to be ascertained? With regard to a few persons of international repute, we know their opinions on government through their published writings. In the case of a Tolstoi or a Prince Kropotkin proofs would not be needed, for such men would admit the heterodoxy of their views on the existing order of society; it follows, then, that the law would be most effective to exclude some of the best of the human race—men of unblamable lives, who would not hurt a fly. Unknown scalawags, however, who would not scruple to swear falsely about their political opinions, would be admitted. The law thus punishes veracity and puts a premium on lying. By a singular slip, the law excludes from its operations persons convicted of murder or other felonies if it appear that the crime have been done from "political" but not otherwise immoral motives, even though the offenders be Anarchists. On the other hand, any alien, whatever be his beliefs, though they be the most strictly orthodox, may be denied entry if the inquisitors be satisfied that he is affiliated with a society of unbelievers. If such a one were discovered reading Proudhon's "Property is Theft" at any time within three years after landing, and this discovery should satisfy a board of official ignoramuses of his affiliation with Anarchists, he might, willy-nilly, be deported from this country!—Philadelphia *Record*, December 20, 1903.

There are two classes of Anarchists. In the first are those who disbelieve in organized government, who would have society depend for safety upon the conscience and common sense of the people, who would bring the world to their way of thinking through the educational agencies of the printing press and the platform. To this class belongs John Turner, an Englishman arrested in New York City for preaching his doctrine. [This is an error; the warrant was issued before he had spoken, and was served while he was speaking about labor unions and strikes.– Free Speech League.] The other class includes the Czolgoszes and the Lucchenis, the men who think that whatever is is wrong, that the only arguments available against government are the dagger, the pistol, and the dynamite bomb. Anarchists of the first class are harmless theorists, who have an undeniable right to hold and to publish opinions which, to the great majority of us, appear hopelessly mistaken. Anarchists of the second class are human wolves, deserving of no toleration whatever—

Ishmaels whose hands are against every man and against whom the hand of every man should be set.

We have a law passed to prevent the landing of Anarchists in this country and to provide for their arrest and deportation should they happen to effect a landing in spite of it. The law is good in purpose, inasmuch as if was adopted primarily to shut out the vicious agitators whose gospel is violence and whose creed is uncompromising hostility to law. *The Eagle* believes that these people should be barred from every American port, that their presence here is an incitement to conspiracy, sedition, and assassination. But between these Anarchists of the second class and the Anarchists of the first there is a broad and vital distinction. The application of the law to the latter is tantamount to the restriction of honest thought and to the restraint of inoffensive speech. It is the suppression by the government of the United States of opinions that are not more threatening to the peace and comfort of society than are the varying views of church members on the eucharist or the baptism of infants. The mass meeting held at Cooper Union last night to protest against the deportation of Turner was marked by the receipt of a letter from Edward M. Shepard, in which the law was characterized as "tyrannical and stupid." Both it certainly is in its present application. The need of a statute that will shut the nation's door to all who come with the avowed intention of urging the overturn of government by forcible methods is obvious and unquestioned; but when that statute is so loosely framed that a Cabinet officer may enforce it to the exclusion of those who are not peripatetic fire-brands, it is high time that some sensible man arose in Congress and suggested its amendment. The task should not be difficult when the legislative intelligence grasps the radical difference between the "mild" Anarchist and the "Red."—Brooklyn *Eagle*, December 4, 1903.

How many Americans know that a law of the United States forbids admission to this country of any person "who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining or teaching such disbelief in or opposition to all organized government"? It has been supposed that the American was born to a heritage of freedom of belief, and that he was guaranteed the right of freedom of speech so long as he did not slander or incite to violence. That the national government could proscribe any class of philosophical opinions, however reprehensible in themselves, would not have been believed in this country a generation ago. . . .

It is not necessary, however, to defend these doctrines in ever so slight a degree before protesting against a law that proscribes opinion and its reasonable expression. Let opinions be beyond any doubt reprehensible; they cannot be eradicated or suppressed by a governmental policy.

Wrong opinion can be overthrown only in the atmosphere of freedom. It must come to the light in frank expression, and be attacked by the weapons of reason and conscience. The whole history of civilization is a demonstration of the superior wisdom of untrammelled discussion. As we have more than once remarked in these columns, the postulate upon which the whole doctrine of repression rests is inherently absurd. It is the assumption that mankind is not, on the whole and in the long run, amenable to reason and sensitive to moral appeal. If this were true, popular government would be in the nature of things impossible, and the stupendous social mechanism of church and university, with all the agencies that they are bringing to bear upon the conduct of men, would be both meaningless and futile.

A case has arisen that we earnestly hope will be carried through to a decision by the Supreme Court. John Turner, an English Anarchist, is held at Ellis Island because of utterances in England and elsewhere that come within the *mala prohibita* of this reactionary law. Happily, it has aroused a vigorous protest by men whose words carry weight in the community. A great mass meeting was held at Cooper Union a few nights ago to voice their opposition. Edward M. Shepard sent a fearless and manly letter that admirably stated the true American doctrine of liberty of thought, and John De Witt Warner placed himself on record in a speech marked by breadth and good sense. The list of vice-presidents of the meeting included many of the most eminent and respectable names in thought and affairs in New York City.

We were sorry to see Bishop Potter in a public address a day or two after taking the position that no one "could blame the Government for excluding a man from this country who boasted that he did not believe in any Government." With Bishop Potter objecting to liberty of opinion, and Bishop Burgess characterizing Wagner's "Parsifal" as sacrilegious, it would seem that the people must for the present look to others than our ecclesiastical dignitaries for the wisest guidance in matters that pertain to the great things of liberty and idealism.—*The Independent*, New York, December 10, 1903.

A mass meeting was held in Cooper Union, New York, December 3, 1903, to protest against those provisions of the Immigration Law which exclude aliens solely because of disbelief in organized government, and under which John Turner was arrested and is now detained at Ellis Island, and is threatened with deportation unless the Supreme Court declares the law unconstitutional.

Chairman, John S. Crosby. Vice-Presidents: Felix Adler, Wm. H. Baldwin, Jr., W. Franklin Brush, A. J. Boulton, James Byrne, Ernest H. Crosby, Horace E. Deming, Henry George, Jr., Prof. Franklin H. Giddings, Rev. Thos. C. Hall, E. W. Ordway, Jos. M. Price, Lawson

Purdy, Paul Revere Reynolds, Wm. Jay Schieffelin, Carl Schurz, Judge Samuel Seabury, Henry D. Sedgwick, Jr., George F. Seward, Charles Sprague Smith, Chas. B. Spahr, Oswald G. Villard, John DeWitt Warner, Chas. W. Watson, Richard W. G. Welling, Horace White, Rev. Leighton Williams, Mornay Williams.

The speakers were former Congressman John DeWitt Warner, Ernest H. Crosby, Rev. Henry Frank, and Congressman Robert Baker from the Sixth District, New York.

Letters approving the purpose of the meeting protesting against exclusion of persons for disbelief were read from Edward M. Shepard, Wm. Lloyd Garrison, Alfred J. Boulton, Chas. Sprague Smith, and Rev. Thos. C. Hall.

The following resolutions were unanimously adopted:

WHEREAS, History shows that whatever evils accompany freedom of speech and of opinion, permanence of popular government can be maintained only by their exercise, and that no error need be feared where truth is free to combat it, and

WHEREAS, Our constitutions secure freedom of thought and speech to us and their spirit should assure the same rights to aliens, and

WHEREAS, Russia, which excludes political opponents and represses free thought and free speech at home, has suffered more than any other Christian nation from violence and assassination, while England, which for sixty years has received and protected all kinds of political exiles, repealing or permitting to grow obsolete her own repressive laws, alone has maintained complete internal peace (except in the case of Ireland, where repression was used), and has been free from revolutionary agitation, and

WHEREAS, These examples demonstrate that repression tends to encourage and freedom to prevent bloodshed and violence, therefore,

Resolved, That we, citizens of New York, protest against so much of the Immigration Law as authorizes the exclusion and deportation of an alien solely because of his opinions, believing that this provision of law is illiberal, unjust, and contrary to the spirit of the Constitution, and that it tends to the creation and encouragement of the evils it is intended to prevent.

Resolved, That we recommend that petitions be addressed to Congress asking that the portion of the law against which we protest be repealed.

AND WHEREAS, John Turner, a citizen of England, is imprisoned under this act solely for his opinions, and is denied the right of private consultation with counsel, and permission to see friends, and is guarded and confined as though convicted of a crime, although he is staying voluntarily in order to test the law.

Resolved, That we protest against such treatment and against the "administrative process" by which Turner was arrested and is detained.

Resolved, That we believe such arbitrary imprisonments to be against the will of our people, and that in the end the United States will not yield to England in the jealousy with which she guards freedom of thought and speech.

I am not able to accept the invitation to speak at the meeting this evening to protest against the deportation of John Turner. But I feel bound to express my deep sympathy with the purpose of the meeting, which I understand to be the promotion of sound, orderly, law-abiding freedom.

I do not know Mr. Turner; nor do I know anything of his speeches, writings, or beliefs except as they appear in the proceedings against him. They have now resulted in the order of a cabinet officer of our Republic that he be excluded by force from our country for believing in a theory of human society different from that held by you and me and the great majority of Americans and other civilized men, and in an order of a federal court that there is no judicial power to interfere with that order. To my mind the order of Secretary Cortelyou is thoroughly un-American, and is dangerous to the future prosperity, and dishonors the true and useful glory, of our Republic.

In the brief submitted to Judge Lacombe in behalf of the government, no assertion, not even a hint, is made against Mr. Turner's character. He is not accused of desiring or seeking violence. The whole charge is that he has called himself an Anarchist. The able contention of his counsel is not disputed that he is an Anarchist only in the sense of those who believe that peace and virtue and happiness do not need the exercise of governmental force.

The sole defense of the Government is that Mr. Turner "disbelieves in all organized government." Secretary Cortelyou applies a statute evidently intended to exclude persons who threaten violence, or murder, to the case of a man merely holding in his own conscience and mind, and who in the freedom of his own England has expressed, a belief that human progress and safety do not need the aid of armies or police. In my opinion, the conclusion of the Commissioner of Immigration and of his Board ought never to have been permitted by the Administration. Upon every theory of constitutional or statutory interpretation prevailing in our country, the statute ought to have been interpreted strictly to favor and not to disfavor freedom of opinion.

I must frankly say that the action of Secretary Cortelyou seems to me to have been only of a piece with much else indicating a temper in our administration and possibly (though I believe not) for a time dominant in American life, of hostility to freedom and favoring those narrow, arbitrary, obstructive, militaristic theories of public administration against which the very birth of our Republic was a protest, theories which all

countries, as they have grown more intelligent and more prosperous, have left behind.

Is it not intolerable that our Government should admit freely a man who believes in despotism, religious persecution, or who supports polygamy (for mere belief in polygamy does not exclude); but that, on the other hand, men should be excluded for holding doctrines long preached and even practised by many of the Quakers and other sects greatly respected by us all, doctrines held to-day by Tolstoi—doctrines the very holding of which implies a certain nobility and generosity of temper and faith? For me those beliefs are as yet impracticable and unsound; but I am far from saying or believing that they are more impracticable than much of the doctrine formulated in the Sermon on the Mount.

Has not America, has not civilization, come to everything now dear to them, to everything upon which their civilization and happiness depend, through the triumph of beliefs which were once odious and once treated as criminal, and for which men were deported and even burnt and crucified? Because Mr. Turner's belief is very far from mine, who am I that I shall say that, in the ages to come, he shall not be found right and I wrong! Who are Secretary Cortelyou and the Commissioner of Immigration and the rest of the great majority (including myself), that we should assert that we better know the truth than the majorities just as virtuous as we are, who in other ages burnt saints and bade the leaders and thinkers and saviors of mankind to be dumb?—Hon. Edward M. Shepard, in letter to Cooper Union Meeting.

Last week a remarkable number of prominent citizens of New York risked popular misconstruction of their views in order to protest against so much of the new immigration law as requires the arrest and deportation of immigrants who "disbelieve in organized government." Vital public interest in this statute, it will be recalled, was aroused by the arrest of John Turner, an English trades unionist, while addressing a meeting in this city the latter part of October. Turner was tried before the Federal Board of Inquiry without counsel or witnesses, and his deportation ordered solely because he answered in the affirmative when asked if he was an Anarchist. It was not alleged that he had approached any nearer to the advocacy of violence than by expressing satisfaction that the workers of Europe were organizing for a general strike to obtain their rights. . . .

The inquiry into Turner's personality proved him to have been an organizer of the English Shop Assistants' (retail clerks) Union, a man with a refined and attractive face, who had for years addressed meetings in England without ever having been the subject of arrest. His arrest here he accepted with equanimity, and when asked whether he was willing to remain in prison in order to make possible a test of the con-

stitutionality of the law under which he was arrested, he cheerfully decided to remain. This attitude on his part gave to many people new personal interest in his case, and when a meeting was called last week to protest against the statute under which he had been arrested, the hall of Cooper Union was packed with sympathizers. Nearly half the audience appeared to sympathize with most of the views of Turner, indicating that already his arrest was having the effect of making more popular the visionary ideas proscribed. Had Turner addressed audiences in every city and town in this country, his arraignment of organized government could not have aroused the discontent with such government that the single act of his arrest had stirred.

Fortunately, the speakers at the meeting all kept on strong conservative ground. Ex-Congressman John De Witt Warner, the first speaker, reviewed the various features of the new law, and contrasted them to their disadvantage with the Alien and Sedition Laws, a century ago, which brought down upon the Federalist party the indignation of the American public. He admitted that there was no express provision in the Constitution forbidding laws abridging freedom of thought, but said that the absence of such a provision was because the framers of the Constitution, who guarded so jealously freedom of speech, never conceived that any of their descendants would attempt to restrict the freedom of thought. Not only did he arraign the section of the new immigration law penalizing disbelief in organized government (unaccompanied by any advocacy of disorder), but also those sections providing for trial by executive processes without the presence of judge, jury, or counsel. Under the statute, he pointed out, any American who in any way abetted the presence of Count Tolstoi or Prince Kropotkin in this country could be fined five thousand dollars or imprisoned for one year, or both, Mr. Ernest Crosby recalled the utterances of one great American after another who had condemned organized government in sentences hardly less radical than those which Turner had used; Henry D. Thoreau, Ralph Waldo Emerson, and Thomas Jefferson were among those whose condemnations of government by force were read with telling effect.

The Outlook is in entire sympathy with the resolution passed at this mass meeting which calls upon Americans everywhere to petition Congress for an amendment of the immigration law so that it shall concern, in so far as it concerns political immigrants at all, only those immigrants who advocate the use of violence or force to overthrow existing government. In other words, we think that the law should recognize the very clear distinction between the man who believes that no government is an ideal state of society to be achieved by persuasion and education—that is, the Philosophical Anarchist; and the man who believes in destroying by fire and dynamite the present structure of society and building something in its place—that is, the Destructive Anarchist.—*The Outlook*, New York, December 12, 1903.

There is something wrong with the American people—Americans of the older stock. They are no longer quick to perceive and keen to resent invasions of the rights for which their forefathers fought.

One of the speakers at the Cooper Union meeting on Thursday night said he feared that Americans have forgotten what Liberty means. He called attention to the significant absence from the meeting of the clergy, leading merchants, judges, the Mayor, the patriotic sons and daughters of this, that and t' other—the representatives of that element of society which calls itself "better" and claims a monopoly of virtue and patriotism—and he charged them all with being recreant to the faith of their fathers.

The indictment was severe, but it was a true bill. Except a few earnest men and women on the platform, there was hardly a sprinkling of old-fashioned Americans in the hall. As one of the morning papers said, with half a sneer, the audience "was recruited mainly from the lower East Side." Perhaps that is why most of them deemed it safe to report the meeting falsely and to assert in stupid headlines that it was a demonstration in defense, favor, and support of Anarchists and Anarchy.

It was such a meeting as might have been held in New York more than a century ago to protest against the alien and sedition laws, or in Boston before that to denounce the tyranny of an English King. It was called in defense of the fundamental rights of the American citizen, the rights of free thought, free speech, and public trial by judge and jury under the forms and safeguards of the common law.

It was a meeting called to protest against and demand the repeal of a law so invasive of those American rights as to wring from the indignant John De Witt Warner this startling challenge to authority: "We will resist to the death our government, or any other government, that attempts to penalize free thought and free speech by enforcing such a law as this."

The meeting was not attended by the people who go to the opera and the Horse Show, nor even by those who make up the audiences at municipal "reform" soirées and political pink teas. It was reported inadequately by most papers, stupidly by several, falsely and malignantly by one, and timidly by the biggest braggart of the lot. It was so treated by the press because the American press has reason to know that the American people have chloroformed their national conscience and do not care a rap for the ideas to which their forefathers pledged their lives, their fortunes, and their sacred honor.

The audience was "recruited mainly from the lower East Side," and in that fact may be found hope for the future of the republic. It was an earnest, alert, intelligent audience, of much quicker, keener intelligence than could have been found that night in any other place of public gathering in all New York. It knew what ideas such names as Guizot,

Reclus, Thoreau, Emerson, and Spencer stand for, and quickly appreciated the slightest allusions to them.

More than all, that audience knew the meaning of "administrative process," knew what dangers to the citizens lie in any curtailment of the right of free speech, and had a living, human grasp of those principles and ideals which have become mere academic platitudes to too many of us. It was an audience composed largely of persons of foreign birth or parentage, and it was more truly American in spirit than any [other] crowd which has been seen in Cooper Union for some time.

Curious, is it not? While Americans are prating solemnly of the evils of immigration and devising barriers to keep aliens out of the country, the immigrants are defending American principles, keeping alive the American ideal, and jealously guarding American rights from invasion by the perverted machinery of American government.

To the man or woman of Europe who comes to America as to the home of freedom, the land of equal opportunity, the word "liberty" is full of vital meaning and the Declaration of Independence is not an obsolete farrago of fine phrases. It is the victim of oppressive government who knows best what John Hay meant when he wrote, long ago, it is true: "For ever in thine eyes, O Liberty, shines that high light whereby the world is saved, and, though thou slay us, we will trust in thee."

Americans have forgotten what tyranny is, and they do not realize that any rights are being taken from them. They are too busy just now to take thought of such a trifle as freedom of speech, conscious, perhaps, of being able to recover anything of which they may be robbed whenever they find it convenient or necessary to do so; but it is well that the "lower East Side" does not forget so readily.—New York *Daily News*, December 5, 1903.

The mass meeting held at Cooper Union last evening was called together to protest against an un-American law which is aimed at an opinion, or a state of mind. Under one of its provisions, John Turner, a theoretical Anarchist, is detained at Ellis Island, and would have been sent back to England ere this had not his lawyers begun proceedings to test the constitutionality of the law. As we have already pointed out, Mr. Turner was arrested in true Russian style, while making an address upon trade unionism at a hall in this city. The sole reason for the interference of the Federal authorities, by direction of Secretary Cortelyou, was some speeches which Mr. Turner had delivered in England, and to which the British authorities had never deemed it worth while to pay any attention. Under this law, the gifted Prince Kropotkin, who was entertained at some of the best homes in this city a year or two ago, could be turned back at the pier—not because he has ever advocated a

resort to violence or a physical atteck upon governments as now organized, but because he is a disbeliever in government based upon force. Tolstoi himself would probably be barred out.

The objectionable clause of the law passed on March 3d of this year is numbered 38. It prescribes that no person shall be permitted to enter the United States "who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining or teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally of the government of the United States or of any other organized government, because of his or their official character. . . ." Plainly, the intention of the framers of this law was to exclude Anarchists who land upon the docks with bombs in their right hands and daggers in their left. With this aim no one will quarrel. But as the law is drawn, it not only, as was well said last night, places high-minded and well-intentioned men of the Kropotkin type on the same plane with the midnight assassin and the dynamiter, but "attacks every principle of free thought, let alone free speech, that our land has held sacred."

If there is one ideal associated with the history of the United States it is the right to free thought and free speech. There was no other motive behind the coming of the Pilgrims than the desire freely to worship as they pleased. Since their day the United States has seen one fantastic theory of government after another proposed and championed in all seriousness. The Quakers, it must not be forgotten, like John Turner, advocated a government which should not be founded on force. Communism in a dozen different forms has been not only urged, but actually attempted.

These experiments involved the breaking down of organized government as that term is universally understood. Yet the men who preached and practised these vagarious doctrines were never arrested or punished for their beliefs, nor were their recruits turned back when en route from foreign shores. The wise and far-sighted American policy has been to let Communists and Socialists of one school or another have their say. The country has recognized that free speech is the best safety-valve in any free land. It has hitherto always declined to follow the example of the French republic in punishing men for their political views.

It seemed, moreover, to have profited by the experience of other lands, notably Russia and Germany. Whenever those nations have sought to put down the men who taught the overthrow of modern governments by force, they have signally failed. Where one man has gone to Siberia for his beliefs or died in the dungeons of St. Peter and St. Paul, another —and often two—has risen to take his place. All the autocratic powers

of the Emperor of Germany and his government have availed nothing in the attempt to stop the growth of Anarchistic doctrine. There are checks in plenty to the spread of such a pernicious and unreasoning propaganda, but they include neither chains nor banishment nor the scaffold. Why should the United States seek, then, to deny its shores to peaceful men who conscientiously believe that the government of the future is to rest upon an entirely different foundation from that which now supports it? And what, if the line is now drawn at men who call themselves Anarchists, is to prevent another Congress, stampeded perhaps by the assassination of a high official, from proscribing men known as Socialists, either of the radical or of the moderate German type? In this as in other matters it is the first step that costs. If the act of a crazy native-born assassin can move Congress to expel or deport foreign visitors for their opinions and forbid their naturalization, to what lengths would it go if goaded on by a similar assassin of foreign birth? As Mr. Shepard asked, why single out men who have philosophic theories of government and overlook men who believe in despotism, religious persecution, or polygamy? As for those who believe in government by oligarchy, the United States would have its hands full to expatriate those who seem, at least by their actions, to prefer this form of government.

The truth is that the statute as now worded, whether intentionally or because of carelessness, savors of the Middle Ages, of the days of religious intolerance and persecution, and is a blot upon the country's good name. It puts sweeping powers into the hands of a government official which he ought never to possess, and cannot be trusted with, as Secretary Cortelyou has shown. It will inevitably bring with it a system of espionage at home and abroad. It involves already deportation at a secret hearing in which the accused man is made the main witness against himself; and from the decision of a commissioner he has no appeal save to a Cabinet officer. The wrong is plainly so monstrous that Congress cannot refuse to amend the law so that it shall apply only to those persons who come here advocating the commission of violent crimes. If the case is fairly and clearly presented, we are confident that few Congressmen will wish to go on record as opposed to freedom of belief and utterance.—New York *Evening Post*, December 4, 1903.

That the State is a separate entity is a mere fiction of the law, which is useful within the very narrow limit of the necessities which called it into existence. This is judicially recognized by our courts and by thoughtful laymen. By getting behind the fiction, to view the naked fact, we discover that the state has no existence except as a few fallible office-holders, theoretically representing the public sentiment, expressing its power, sometimes doing good and often thriving on the ignorance and indifference of the masses. When we abolished the

infallibility of rulers by divine right, we at the same time abolished the *political duty* of believing either in God or what was theretofore supposed to be his political creation, the State.

Henceforth government was to be viewed only as a human expedient to accomplish purely secular human ends, and subject to be transformed or abolished at the will and discretion of those by whose will and discretion it was created and is maintained. The exclusively secular ends of government were to protect each equally in life, liberty, and the pursuit of happiness. So the fathers of our country in their Declaration of Independence wrote that: "Whenever any form of government becomes destructive of these ends, it is the right of the people to alter *or abolish it*." Similar declarations were made by the separate colonies. Thus the Pennsylvania Declaration of Rights contains these words: "The community hath an indubitable, inalienable, and indefeasable right to reform, alter, *or abolish*, government, in such manner as shall be by that community judged most conducive to the public weal." In harmony with these declarations we made laws, such that political offenders, though they had been in open revolt to a tyrannous foreign government, or had slain the minions of the tyrant, might here find a safe retreat from extradition.

All this has passed away. Formerly it was our truthful boast that we were the freest people on earth. To-day it is our silent shame that among all the tyrannical governments on the face of the earth ours is probably the only one which makes the right of admission depend upon the abstract political opinions of the applicant. Our people denounce the unspeakable tyranny of a bloody Czar, and pass laws here to protect him in the exercise of his brutalities in Russia. Instead of being "the land of the free and the home of the brave," we exclude from our shores those who are brave and seek freedom here, and punish men for expressing unpopular opinions if they already live here. In vain do the afflicted ones appeal to a "liberty loving" populace for help in maintaining liberty.

In this short essay, I can discuss specifically only the denial of liberty of conscience, speech, and press, as it affects one class of citizens, and I choose to defend the most despised.

Under our immigration laws no Anarchist, that is, "no person who disbelieves in or who is opposed to all organized governments," is allowed to enter the United States, even though such person be a non-resistant Quaker. In other words, the person who believes with the signers of the Declaration of Independence that those who create and maintain governments have a right to abolish them, and who also desire to persuade the majority of their fellow-men to exercise this privilege, are denied admission to our national domain.

Of course that and kindred legislation was the outgrowth of the most

crass ignorance and hysteria, over the word "Anarchist." I say most crass ignorance deliberately, because to me it is unthinkable that any sane man with an intelligent conception of what is believed by such non-resistant Anarchists as Count Tolstoi, could possibly desire to exclude him from the United States. It almost seems as though most people were still so unenlightened as not to know the difference between Socialism, Anarchism, and regicide, and so wanting in imagination that they cannot possibly conceive of a case in which the violent resistance or resentment of tyranny might become excusable. Thus it is that the vast multitude whose education is limited to a newspaper intelligence, stupidly assume that no one but an Anarchist could commit a political homicide, and that every Anarchist of necessity condones every such taking of human life. Nothing of course could be farther from the fact, but out of this ignorance it comes that every attempt at violence upon officials is charged against Anarchists even before it is known who the perpetrator was, and without knowing or caring whether he was an Anarchist, a Socialist, an ordinary democrat, a man with a personal grudge, or a lunatic. From such foundation of ignorance comes the result that we punish those who disagree with the English tyrant of a couple of centuries ago, who said that the worst government imaginable was better than no government at all.

For the benefit of those whose indolence precludes them from going to a dictionary to find out what "Anarchism" stands for I will take the space necessary to quote Professor Huxley on the subject. He says:

"Doubtless, it is possible to imagine a true 'Civitas Dei,' in which every man's moral faculty shall be such as leads him to control all those desires which run counter to the good of mankind, and to cherish only those which conduce to the welfare of society; and in which every man's native intellect shall be sufficiently strong and his culture sufficiently extensive to enable him to know what he ought to do and to seek after. And in that blessed State, police will be as much a superfluity as every other kind of government. . . . Anarchy, as a term of political philosophy, must be taken only in its proper sense, which has nothing to do with disorder or with crimes; but denotes a state of society, in which the rule of each individual by himself is the only government the legitimacy of which is recognized. Anarchy, as thus far defined, is the logical outcome of the form of political theory which, for the last half-century and more, has been known under the name of Individualism."

And men who merely believe this beautiful ideal attainable are unfit for residence in a land that boasts of freedom of conscience and press!

If the distinguished and scholarly author of the "Life of Jesus," M. Ernest Renan, should be Commissioner of Immigration, he would,

under present laws, be compelled to exclude from the United States the founder of Christianity, should he seek admission. In his "Life of Jesus," Renan expresses this conclusion: "In one view Jesus was an Anarchist, for he had no notion of civil government, which seemed to him an abuse, pure and simple. . . . Every magistrate seemed to him a natural enemy of the people of God. . . . His aim is to annihilate wealth and power, not to grasp them."

If the Rev. Heber Newton were Commissioner of Immigration, he, too, would have to exclude Jesus from our land as an Anarchist. Dr. Newton says: "Anarchism is in reality the ideal of political and social science, and also the ideal of religion. It is the ideal to which Jesus Christ looked forward. Christ founded no church, established no state, gave practically no laws, organized no government, and set up no external authority, but he did seek to write on the hearts of men God's law and make them self-legislating."

Surely people who ask only the liberty of trying to persuade their fellow-men to abolish government, through passive resistance, cannot possibly be a menace to any institution worth maintaining, yet such men we deny admission into the United States. If they chance to be Russians, we send them back, perhaps to end their days as Siberian exiles, and all because they have expressed a mere abstract "disbelief in government," though accompanied only by a desire for passive resistance.

Julian Hawthorne wrote this: "Did you ever notice that all the interesting people you meet are Anarchists?" According to his judgment, "all the interesting people" would, under present laws, be excluded from the United States. An industrious commissioner, zealous to enforce the law to the very letter, could easily take the writings of the world's best and greatest men, and, if foreigners, on their own admissions, could exclude them because they had advocated the Anarchist ideal of a "disbelief in government." Among such might be named the following: Count Leo Tolstoi, Prince Peter Kropotkin, Michel Montaigne, Thomas Paine, Henry Thoreau, Lord Macaulay, William Lloyd Garrison, Hall Caine; Turgot, Simeon of Durham, Bishop of St. Andrews, Max Stirner, Elisée Reclus, Frederick Nietzsche, Thomas Carlyle, Horace Traubel, Walt. Whitman, Elbert Hubbard, Samuel M. Jones, Henrik Ibsen, Pierre Proudhon, Michael Bakunin, Charles O'Conor, and probably also Ralph Waldo Emerson, Thomas Jefferson, Herbert Spencer, John Stuart Mill, and—but what 's the use? They can 't all be named.

These are the type of men who hold an ideal, only a dream, perhaps, of liberty without the invasion of even government, and therefore we make a law to exclude them from the United States. But that is not all we do in this "free" country. If a resident of this "land of the free"

should "connive or conspire" to induce any of these non-resistants, who "disbelieve in governments," to come to the United States, by sending one of them a printed or written, private or public, invitation to visit here, such "conspirer" would be liable to a fine of five thousand dollars, or three years' imprisonment, or both. And yet we boast of our freedom of conscience, of speech and of press!

It is hard for me to believe that there is any sane adult, worthy to be an American, who knows something of our own revolutionary history, who does not believe revolution by force to be morally justifiable under some circumstances, as perhaps in Russia, and who would not defend the revolutionists in the slaughter of the official tyrants of Russia, if no other means for the abolition of their tyranny were available, or who would not be a revolutionist if compelled to live in Russia and denied the right to even agitate for peaceable reform. And yet "free" America, by a congressional enactment, denies admission to the United States of any Russian patriot who agrees with us in this opinion, even though he has no sympathy whatever with anarchist ideals. It is enough that he justifies the "unlawful" killing (even though in open battle for freedom) of any "tyrant officer" of "any civilized nation having an organized government." Here, then, is the final legislative announcement that no tyranny, however heartless or bloody, "of any civilized nation having an organized government" can possibly justify violent resistance. It was a violation of this law to admit Maxim Gorky into this country, though he is not an Anarchist.

In the state of New York, although satisfied with American conditions and officials, and although you believe in democratic government, if you should orally, or in print, advocate the cause of forcible revolution against Russia, or against "any civilized nation having an organized government," you would be liable, under a state statute, to a fine of $5,000 and ten years' imprisonment besides. Have we, then, freedom of conscience, speech, and press? Do we love liberty or know its meaning?

Yes, it may be that a dispassionate and enlightened judge must declare such laws unconstitutional, but such judges are as scarce as the seekers after martyrdom who are willing to make a test case. Hence we all submit to this tyranny. Furthermore, the same hysteria which could make legislators believe they had the power to pass such a law, in all probability would also induce courts to confirm such power. A Western jurist, a member of the highest court of his state, once said to me that it must be a very stupid lawyer who could not write a plausible opinion on either side of any case that ever came to an appellate court. Given the mental predisposition induced by popular panic, together with intense emotions, and it is easy, very easy, to formulate verbal "interpretations" by which the constitutional guarantees are explained

away, or exceptions interpolated,—a common process for the judicial amendment of laws and constitutions.

If, then, we truly believe in the liberty of conscience, speech, and press, we must place ourselves again squarely upon the declaration of rights made by our forefathers, and defend the right of others to disagree with us, even about the beneficence of government.

As when your neighbor's house is on fire your own is in danger, so the protection of your liberty should begin when it is menaced by a precedent which attacks your opponent's equality of opportunity to express his disagreement with you. Let us then unite for the repeal of these iniquitous laws, born of hysteria and popular panic, and maintained in thoughtless disregard of others' intellectual freedom.—Theodore Shroeder, "Our Vanishing Liberty of the Press." *The Arena*, December, 1896.

APPENDIX

Censorship of Sex-Literature

Let me now give you some information as to what has been and can be suppressed. And here I must confess to my inability to make a thorough report, partly because no man can discover more than a small percentage of what has been suppressed, and partly because, in many cases where suppression is accomplished by a mere threat to prosecute, the publishers and authors become seized with a cowardly fear, and, instead of resisting the tyranny, will not even consent that others shall mention the fact because they don't want the public to know that any of their publications have ever been under suspicion. So they quietly pocket their loss and chagrin and command their friends to keep the secret, and, so far as the general public is concerned, they suppress all knowledge of the censor's acts.

THE CASE OF HICKLIN

Our American judicial conception of "obscene literature" was adopted from the British, our courts having literally read into our statutes the ruling of their leading case. The first reported English decision (Reg. vs. Hicklin, L. R. 3, Q. B. 360) which attempted to state a test of obscenity was decided in 1868, and furnished the precedent for practically all American decisions. The facts were as follows: Hicklin, the accused, had sold a pamphlet entitled "The Confessional Unmasked; Showing the Depravity of the Romish Priesthood, and the Questions Put to Females in Confession." The pamphlet consisted of extracts from Catholic theologians, one page giving the exact original Latin quotations and the adjoining page furnishing a correct translation thereof. Most of the pamphlet admittedly was not at all "obscene." It was not sold for gain, nor with any intention to deprave morality. It was sold by him as a member of the "Protestant Electoral Union," formed "to protest against those teachings and practices which are un-English, immoral, and blasphemous, to maintain the Protestantism of the Bible and the liberty of England. . . . To promote the return to Parliament of men who will assist them in these objects and particularly will expose and defeat the deep-laid machinations of the Jesuits, and resist grants of money for Romish purposes." (A few years ago a similar book issued by some anti-Catholic association was suppressed in California.)

Notwithstanding all these admitted facts, the court held the pamphlet to be obscene and laid down this test: "Whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds

are open to such immoral influences and into whose hands a publication of this sort may fall." It will be observed that it was criminal, if in the hands of any one imaginary person it might be speculatively believed to be injurious, no matter how much it tended to improve the morals of all the rest of mankind, nor how lofty were the motives of those accused, nor how true was that which they wrote. This is still the test of obscenity under our laws, and it has worked some results which could hardly have been in contemplation by our legislators in passing our laws against "indecent" literature.

SANGER'S "HISTORY OF PROSTITUTION"

Dr. William W. Sanger was for a long time resident physician at Blackwell's Island, and held other important positions. In 1876 he made "an official report to the boards of Almshouse Governors of the City of New York," since published and circulated under the title of "The History of Prostitution: Its Extent, Causes, and Effect Throughout the World." It is a very learned treatise, evidencing great research and a real scholar's desire to help humanity. Under date of November 15, 1907, a Sunday school politician (seemingly) by the name of R. M. Webster, holding down his job of "Acting Assistant Attorney-General" of these United States, wrote a letter to the Hon. A. L. Lawshe, Third Assistant Postmaster-General, advising him to exclude from the mails a periodical containing an advertisement of the above book, as to which he wrote: "The History of Prostitution" *which from its very name is clearly* indecent and unfit for circulation through the mails." Although the general public would seem to be entitled to know all that can be known upon the subject of prostitution, for the purpose of deciding what laws are best to pass upon the subject, yet a petty department clerk, living on that same general public, assumes without protest to be their master and tells them by a mere inspection of the title of a book and without troubling to know its contents, that it is too "indecent and unfit" for them even to know about. I am advised that at one time even Mr. Comstock paid this book a very high compliment, which it certainly deserved.

You will admit such a ruling is absurd? But it *is the law* for all postal officials and controls their action. *What are you going to do about it?*

"VICE: ITS FRIENDS AND ITS FOES," AND "UP-TO-DATE FABLES."

In the same letter this little clerk, who really is the master of our intellectual food supply, pronounced a magazine unmailable for advertising "Vice: Its Friends and Its Foes," "Up-to-date Fables," of which he says—"both of which, from the table of contents set forth in each advertisement, are obscene, lewd, lascivious, or indecent." The first of these booklets I have seen and in the main it is an attack on Comstockery,

and an argument for sexual intelligence. Even Mr. Comstock would not have found this booklet to be obscene, though of course he would disagree with its conclusions. The table of contents is too long to reproduce here, but I will reproduce the table of contents of the "Up-to-Date Fables," just to show how little information is necessary to discover "obscenity" when one has a "pure" mind. Here it is: "Contents: The Male Amazons, The Strassburg Geese, Bread Eaten in Secret, The One Tune, A tale about Noses, The Women and the Wells, Mrs. Grundy's Two Boarding Schools, The Emancipated Horses." Now, then, from that, and that alone, a pee-wee clerk in the government employ is able to decide and does decide, that this booklet is degrading to our morals, an advertisement telling us where it may be had is unmailable, and to send any of these through the mails entitles the sender to five years in jail.

"ALMOST FOURTEEN"

In 1892 Dodd, Mead & Co. published a little book entitled "Almost Fourteen," written by Mortimer A. Warren, a public school teacher. Before publishing it, Mr. Warren submitted the manuscript to his wife and to the pastors of the Broadway Tabernacle and of the Church of the Heavenly Rest, and to Dr. Lyman Abbott. All these indorsed its aim and tone.

After publication, there were of course prudes who criticized, but such papers as *The Christian Union* gave it a favorable review. The Rev. L. A. Pope, then pastor of the Baptist Church of Newburyport, Mass., placed the book in the Sunday school library of his church, and purchased a large number at a reduced price, selling them at cost, simply that the young might read and learn, so well did he think of the book. In my own view it would be impossible to deal properly with the subject of sex and do it in a more delicate, inoffensive manner.

No question was raised about the book until 1907, when Albert F. Hunt, of Newburyport, Mass., was arrested for selling "obscene" literature. Mr. Hunt had made himself very unpopular as an aggressive reformer. He had attacked the police force, exhibited the iniquity of the city administration, exposed the sins of the city, such as the practice of taking nude photographs, the aggressions of the saloonkeepers, and exposed the owners of buildings leased for prostitution. He had many influential enemies. In this condition he secured permission to republish "Almost Fourteen" in his paper, was arrested, convicted, and fined.

I have no doubt in my mind that, judged by the scientifically absurd tests of obscenity as applied by the courts, this innocent book was criminal under the law against obscene literature, because no doubt somewhere there existed some sexually hyperesthetic person into whose hands it might come, and in whose mind it might induce lewd thoughts. The

legislative "obscenity" takes no account of the thousands who might be benefited by such a book; it only asks if there may be one so weak that it might injure him.

After this conviction for circulating humanitarian literature of a most useful kind, the author of this good book was driven from his place as principal of the public schools, by the prudish bigotry of his fellow-townsmen and employers. The book can now be had only with much of its most useful matter eliminated. We need liberty of the press for persons like Warren, Hunt, and Dodd, Mead & Co.

"FROM THE BALLROOM TO HELL"

This book has the indorsement of practically all opponents of dancing. It furnished the suggestions for thousands of sermons; it had the commendation of innumerable clergymen, including several bishops; it went through the mails unchallenged for twelve years. A Chicago postal official now declares it criminally "obscene", and the book is suppressed. Again it is not a rule of general law which makes this book criminal, but the whim or caprice of a postal subordinate.

MRS. CARRIE NATION ARRESTED

Most of the literature intended to promote personal purity is so veiled in a fog of verbiage as to be utterly meaningless to the young, because they lack the intelligence which alone could make it possible to translate the inuendoes into the mental pictures which the words are supposed to symbolize. Recently Mrs. Carrie Nation, in her paper, published some wholesome advice to small boys. She used scientifically chaste English and took the trouble to define the meaning of the words. She wrote so plainly that there was actually a possibility that boys might understand what she was trying to warn them against. She wrote with greater plainness than some of those books which have been adjudged criminally obscene.

A warrant was issued for her in Oklahoma, for sending "obscene" matter through the mails. She being then in Texas on a lecture tour, was there arrested and taken to Dallas before a U. S. commissioner. Fortunately she found there a U. S. attorney with some sense, who, though he did not approve of her taste, consented to the discharge of the prisoner. . . .

"CLARK'S MARRIAGE GUIDE."

In Massachusetts one Jones was arrested for sending through the mails "Clark's Marriage Guide." It must already be apparent that under the laws in question no one can tell in advance what is or is not criminal, because no one can predetermine what will be the opinion of

a judge or jury upon the speculative problem of the book's psychological tendency upon some hypothetical reader suffering from sexual hyperestheticism. Unfortunately, Mr. Jones went for advice to a lawyer who must have been a good deal of a prude, and who therefore advised his client to plead guilty, which he did. Later, when Judge Lowell was called upon to impose sentence, he is reported to have said that the book "is not immoral or indecent at all," and imposed only a nominal fine. In Chicago the same book was suppressed by heavy fines, aggregating over $5,000.

"STUDIES IN THE PSYCHOLOGY OF SEX"

In England, under a law just like our own in its description of what is prohibited, Dr. Havelock Ellis' "Studies in the Psychology of Sex" have been wholly suppressed as "obscene" by the conviction of one vendor.[7] These studies are so exhaustive and collect so much original and unusual information that they mark an entirely new epoch in the study of sexual science. The German edition of this very superior treatise is now denied admission into the United States, to protect the morals and perpetuate the ignorance of the German-American physicians. Furthermore, no one can doubt that their exclusion is in strict accord with the letter of the statute as the same is ignorantly interpreted through the judicial "tests" of obscenity.

That scientifically absurd test is decisive even though applied to a scholarly treatise upon sex, circulated within the medical profession, for the statute makes no exception in favor of medical men. An impartial enforcement of the letter of the law, as the word "obscene" is now interpreted, would entirely extirpate the scientific literature of sex. So deeply have the judges been impressed with this possible iniquity, that by dictum, quite in excess of their power, they have made a judicial amendment of the statute, excepting from its operation books circulated only among physicians. Such judicial legislation of course is made under the pretense of "statutory interpretation" and involves the ridiculous proposition that a book which is criminally obscene if handed to a layman, changes its character if handed to a physician; it assumes that a scientific knowledge of sex is dangerous to the morals of those who do not use the knowledge as a means of making money in the practice of medicine, and that it becomes a moral force when, and only when, thus employed for pecuniary gain. Public morals depend upon ignorance. The suppression of the American edition of "Studies in the Psychology of Sex," awaits only the concurrent eruption of a caprice in some fool reformer and a stupid jury. The same statutory words which furnished a conviction in England, and here are adequate to exclude the German edition, will determine the suppression of the American edition.

DR. MALCHOW AND "THE SEXUAL LIFE"

Connected with the Methodist Episcopal church schools, is Hamline University College of Physicians and Surgeons. Dr. C. W. Malchow was there the professor of proctology and associate in clinical medicine. He was also the president of the Physicians and Surgeons' Club of Minneapolis, and a member of the Hennepin County Medical Society, the Minnesota State Medical Society, and the American Medical Association.

He wrote a book on "The Sexual Life" which received strong praise from educational and medical journals and from professional persons. I have seen commendatory reviews from ten professional magazines. While in press, he read a most perplexing chapter from the book to a meeting of Methodist ministers and its delicate treatment of a difficult subject was strongly commended.

Yet under the absurd tests prescribed by the courts and in spite of the protests of the Minneapolis *Times* and *Tribune*, Dr. Malchow and his publisher have served a jail sentence for selling to the laity, through the mail, a high class scientific discussion of sex.

During the trial, the court refused the defendants the right to prove that all in the book was true, holding, with all the judicial decisions, that their being true was immaterial in fixing guilt. An unsuccessful effort was made to prove the need for such a book because of the great ignorance of the public upon sex matters, and the "learned" judge remarked that he hoped it was true that the public was ignorant of such matters, and excluded the evidence. President Roosevelt, being asked by members of Congress to pardon the convicts because of the propriety of this book, is reported to have expressed an amazing regret that he could not prolong the sentence.

"THE LIFE SEXUAL"

Edgar C. Beall, M.D., wrote a little book entitled "The Life Sexual, a Study of the Philosophy, Physiology, Science, Art, and Hygiene of Love," which was suppressed in 1906 by threat of prosecution. The book was written for the general reader, and differs from the ordinary "purity" book in that the theology of sex is supplanted by a more enlightened view, and much very wholesome and needed advice, in spite of its slight element of "phrenopysics." However, this had nothing to do with its "obscenity." I have read much of this book and can not for the life of me conceive why it should be deemed offensive, because the book is written in a refined style and is instructive. The opening chapter is devoted to a strong criticism of "The Ban upon Sexual Science," and maybe therein lies the cause of complaint. Another explanation was offered by a minor official, which was, that this matter, coming to the attention of the post office department immediately after the suppression

of Professor Malchow's book, the similarity of title suggested a necessary similarity in treatment of the subject and therefore a like "obscenity."

DR. KIME AND THE IOWA MEDICAL JOURNAL

A very few years ago, Dr. Kime, the editor of the *Iowa Medical Journal*, was convicted of "obscenity." He was a physician of high standing and a trustee of a medical college, in which a few young rowdy students were apparently endeavoring to drive out the women students. A protest to the college authorities resulted only in a two week's suspension. On further complaint, instead of protecting the women in their equal right to study medicine under decent conditions, the authorities excluded women altogether from the medical school. Filled with indignation, Dr. Kime reiterated his protest, and gave publicity to some of the methods of persecution, including an insulting prescription which appeared on the blackboard where all the class could see it. In his *Medical Journal* he wrote: "We had thought to withhold this prescription, owing to its extreme vulgarity, but we believe it our duty to show the condition exactly as it exists, and let each physician judge for himself as to the justness of the protest filed." Then followed the "obscene" prescription, the obscenity of which consisted wholly in the use of one word of double meaning.

For this he was arrested, and, although supported by all four daily papers of his home city, by the clergy of all denominations, the presidents of the Y. M. C. A., the W. C. T. U., and the Western Society for the Suppression of Vice, and the Society for the Promotion of Social Purity, he was convicted, branded as a criminal, and fined. Judged by the absurd judicial "tests of obscenity" which are always applied, the conviction was unquestionably correct.

CRADDOCK AND STOCKHAM CASES

As illustrating how our fears are often but the product of ignorance, I am going to relate to you how and why I changed my mind about two booklets pronounced "the most obscene" that ever came to the criminal court. . . . Both were entitled "The Wedding Night," and dealt with the subject in a very detailed manner. One was by an unfortunate woman named Ida C. Craddock, who styled herself a "purity lecturer." Mr. Comstock denounced her book as "the science of seduction." It could have been more accurately described as advice for the best means of consummating the marriage. The judge who sentenced the author called it "indescribably obscene." To one who, from diseased sex-sensitiveness, is incapable of reading a discussion of sex functioning with the same equanimity as would accompany a discussion of lung functioning, or to one who would apply the absurd judicial "tests of obscenity," this booklet must appear

just as these men described it. Of course, she was found guilty. Later she committed suicide to escape the penalty of the law.

For the book Mrs. Craddock claimed to have the indorsement of several prominent members of the Women's Christian Temperance Union, and published a letter from the Rev. W. S. Rainsford, the very distinguished rector of the fashionable St. George's Episcopal Church of New York City, in which he said: "This much I will say, I am sure if all young people read carefully 'The Marriage Night,' much misery, sorrow, and disappointment could be avoided."

The other booklet was by Dr. Alice Stockham, the well known author of "Tokology" and similar books, and in name and substance, I believe, it was very much like the Craddock book. A post office inspector pronounced it the most obscene book he had ever read. She was convicted and heavily fined, though, with many friends, she vigorously defended the propriety and necessity for her booklet of instructions. Of course neither of these books, nor any like them, are now anywhere to be had.

The question is, what good could be done by these books, so unquestionably "obscene" if judged by present judicial standards? I confess that when first I heard of these cases I knew of no excuse for the existence of this unpleasant literature.

I had read in medical literature statements like this: "The shock and suffering endured by the young wife, in the nuptial bed, is too frequently prolonged into after-life, and may seriously mar the connubial bliss."* Such generalizations, however, meant nothing to me until a strange set of circumstances came to my notice, which I will relate to you in the order of their occurence.

Not long since I learned of the marriage of persons in a most conservative social set. The couple had been chums since childhood and engaged lovers for many years. After this long waiting, came the joyously anticipated wedding, and the bride was the ideal picture of radiant love. The day after her marriage she acted strangely, and by evening her husband and relatives concluded that her reason had been dethroned, and ever since she had been confined in a sanitarium. Through her incoherent speech only one thing is sure and constant, and that is that she never again wants to see her husband. More information is not given to the conservative circle of her friends. All profess ignorance as to the immediate cause of this strange mania, which reverses the ambition, hope, and love of a lifetime.

Strangely enough, within two days after hearing this painful story, a friend handed me the *Pacific Medical Journal* for January, 1906.† Therein I read the following paragraphs and to me the mystery had been

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The material portion of the article reads as follows: "While upon this point, I would say that under the so-called sanctity of the Christian marriage untold thousands of the most brutal rapes have been perpetrated, more brutal and fiendish, indeed, than many a so-called criminal rape. So outrageous has been the defloration of many a young girl-wife by her husband, that she has been invalided and made unhappy for the balance of her natural life. There are cases on record where so violently has the act of copulation been performed that the hymen, being thick and but slightly perforated, death has followed its forcible rupture and the nervous shock associated with the infamous proceeding. Here the criminally ignorant young husband and the ravisher are at par, and no censure that the world can mete out to them can be too great."

And now, I thought, I had received new light on those strange and not infrequent accounts one reads in the newspapers of young women who commit suicide during their "honeymoon." Here another strange chance led me to a physician friend who directed me to statements from a half dozen physicians, all corroborating that of Dr. Shufeldt.

After reading these statements from highly reputable physicians, I could no longer doubt that these "most obscene" books ever published were really most humanitarian efforts on the part of those who perhaps had a wider knowledge than I possessed. If this is "the worst," I am prepared to take chances on all lesser "obscenity."

Quite a number of physicians have been arrested and convicted for sending through the mails information as to venereal diseases. One of these books, which serves as a type for all, has been thus described by a former assistant attorney-general of the post office department. He says the book "consisted mainly of a description of the causes and effects of venereal diseases, and secondly, two circulars, one of which described in separate paragraphs the symptoms of various venereal diseases." That was held to be criminally "obscene."

"The Social Peril" is a book dealing with venereal infection, and is by one of the best professional moralists in America. Mr. Comstock threatened him with arrest for "obscenity," partly for a fifteen page quotation from a book by Rev. Henry Ward Beecher. "The Social Peril" is suppressed, for fear of a criminal prosecution, though other elements finally culminated to accomplish the same end.

THE BIBLE JUDICIALLY DECLARED OBSCENE

One of the early American prosecutions of note was that of the distinguished eccentric, George Francis Train, in 1872. He was arrested for circulating obscenity, which it turned out consisted of quotations

just as these men described it. Of course, she was found guilty. Later she committed suicide to escape the penalty of the law.

For the book Mrs. Craddock claimed to have the indorsement of several prominent members of the Women's Christian Temperance Union, and published a letter from the Rev. W. S. Rainsford, the very distinguished rector of the fashionable St. George's Episcopal Church of New York City, in which he said: "This much I will say, I am sure if all young people read carefully 'The Marriage Night,' much misery, sorrow, and disappointment could be avoided."

The other booklet was by Dr. Alice Stockham, the well known author of "Tokology" and similar books, and in name and substance, I believe, it was very much like the Craddock book. A post office inspector pronounced it the most obscene book he had ever read. She was convicted and heavily fined, though, with many friends, she vigorously defended the propriety and necessity for her booklet of instructions. Of course neither of these books, nor any like them, are now anywhere to be had.

The question is, what good could be done by these books, so unquestionably "obscene" if judged by present judicial standards? I confess that when first I heard of these cases I knew of no excuse for the existence of this unpleasant literature.

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from the Bible. Train and his attorneys sought to have him released upon the ground that the matter was not "obscene," and demanded a decision on that issue. The prosecutor, in his perplexity, and in spite of the protest of the defendant, insisted that Train was insane. If the matter was not obscene, his mental condition was immaterial, because there was no crime. The court refused to discharge the prisoner as one not having circulated obscenity, but directed the jury, against their own judgment, to find him not guilty, on the ground of insanity, thus, by necessary implication, deciding the Bible to be criminally obscene.

Upon a hearing on a writ of habeas corpus, Train was adjudged insane, and discharged. Thus an expressed decision on the obscenity of the Bible was evaded, though the unavoidable inference was for its criminality.

In his autobiography, Train informs us that a Cleveland paper was seized and destroyed for republishing the same Bible quotations which had caused his arrest in New York. Here, then, was a direct adjudication that parts of the Bible are indecent, and therefore unmailable. (Here I think Train must be referring to the conviction of John A. Lant, publisher of the *Toledo Sun.*)

In 1895, John B. Wise, of Clay Center, Kansas, was arrested for sending obscene matter through the mails, which again consisted wholly of a quotation from the Bible. In the United States court, after a contest, he was found guilty and fined.

Just keep in mind a moment these court precedents where portions of the Bible have been judicially condemned as criminally obscene, while I connect it with another rule of law. The courts have often decided that a book to be "obscene" need not be obscene throughout, the whole of it, but if the book is obscene in any part it is an obscene book, within the meaning of the statutes.*

You will see at once that, under the present laws and relying wholly on precedents already established, juries of irreligious men could wholly suppress the circulation of the Bible, and, in some States, the laws would authorize its seizure and destruction and all this because the words "indecent and obscene" are not definable in qualities of a book or picture. In other words, all this iniquity is possible under present laws because courts did not heed the maxim, now scientifically demonstrable, viz.: "Unto the pure all things are pure."

Of course, the Old Testament, in common with all books that are valuable for moral instruction, contains many unpleasant recitals, but that is no reason for suppressing any of them. I prefer to put myself on the side of that English judge who said: "To say in general that the conduct of a dead person can at no time be canvassed; to hold that even after ages are passed the conduct of bad men can not be contrasted

*16 Blatchford, 368.

with the good, would be to exclude the most useful part of history.'

I therefore denounce this law because under it may be destroyed books containing records of human folly and error from which we may learn valuable lessons for avoiding the blight from violating nature's moral laws. Under our present statutes some of the writings of the greatest historians and literary masterpieces have been suppressed and practically all would be suppressed if the courts should apply to them impartially the present judicial test of obscenity.

This, then, is a partial record of some useful things coming under the ban of our censorship of literature which have come under my notice. Some other books as valuable as the best of those which have been herein mentioned I can not speak of, because the authors and publishers prefer that no mention should be made of the fact. The most injurious part of this censorship, however, lies not in the things that have been suppressed, as against the venturesome few who dare to take a chance on the censorship, but rather on the innumerable books that have remained unwritten because modest and wise scientists do not care to spend their time in taking even a little chance of coming into conflict with an uncertain statute arbitrarily administered by laymen to the medical profession, in which profession are many not overwise and sometimes fanatical zealists in the interest of that asceticism which is the crowning evil of the theology of sex.—Theodore Schroeder, in *The Medical Council*, Philadelphia.

In the same year, 1859, appeared Darwin's "Origin of Species" and Mill's "Liberty." Darwin taught us that all development of organic life, from the zoöphyte up to man, has resulted from the ability of some small variation to preserve itself against the majority of its species until a new species, incorporating that variation, is established. Mill proved that all social progress depended on the ability to develop mental and moral variations from the majority. In the two books we may trace evolution, from the sponge up to Shakespeare, as an unbroken struggle for larger liberty, by differentiation; had it been permanently defeated even in a worm, man could not have existed; had it been permanently defeated in the first human brain that differed from its fellows, in every race, civilized man* could not have existed. This is still the law: Freedom of individual difference to develop itself is the condition of all progress, social, moral, and physical. If to-day any moral or other differentiation in any mind can be silenced or repressed by authority, or by the fear of it, all advance of mankind is arrested.

The greatest legal crimes of history have been done in the name of morality, as in the execution of Jesus for his "immorality" in violating

*Rex vs. Toyham, 4 T. R. 129.

the Sabbath laws and blasphemy laws of his country. Many a man has similarly suffered, whose immorality is now morality.

By the laws that have fullest public support, those of obscene libel, it is doubtful whether any good whatever is done. A few really obscene fellows are caught and punished, but their trade is benefited: their wares are advertised, and the price raised by such generally ineffective efforts at suppression. On the other hand, such laws, for the sake of catching a few rats, tamper with the foundations of the social house. The freedom of thought and utterance, the foundations of social civilization, are tampered with by all the laws that cannot be equally applied. No law against immoral literature can be framed, which, fairly administered, would not expurgate the Bible and the majority of classics. A law against indecent pictures, equally applied, would invade every art gallery. Every such law involves the submission to a few persons, necessarily unfit, the circulation or suppression of productions that may be of especial importance to mankind. Nearly every work of genius was burnt by the common hangman, up to the Reformation, and many since —not to mention the grand works of art piously destroyed by the Puritans.

Liberty can admit no libel except on persons. That some abuse freedom of the press by coarse publications is no more reason for the suppression of that freedom than suicide is a reason for suppressing razors. And although that word "suppression" is not applicable to the obscene literature at which it is mainly aimed, it is unhappily applicable to ethical literature that is much needed. Our literary censorship and inquisition are concentrated on one kind of immorality—sexual. This whole theme, though of supreme importance, is by such statutes branded as indecent. The greatest genius, able to announce the most important discoveries on that vital subject—sex—might easily be silenced by the liability of his work to accusations of indecency. Where such statutes destroy one obscene book, they prevent a hundred needed ones from ever being born. Both moral and physical science are intimidated, the real knowledge of sexual laws obstructed, and by this suppression the impetus is given to the obscene dealer's trade. For such legal restrictions on moral themes are felt most profoundly by moral people, by responsible thinkers.—"Liberty—Our Lingering Chains," in *The Open Court*, December 28, 1893.

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